

Appendix A



Pennsylvania Guidance for
Mail-in and Absentee
Ballots Received from the
United States Postal
Service after 8:00 p.m. on
Tuesday, November 3,
2020

Date: October 28, 2020

Version: 1.0

In recognition of documented United States Postal Service (“USPS”) delays and citing the Pennsylvania Constitution’s Free and Equal Elections Clause’s guarantee of free exercise of the right to suffrage, on September 17, 2020, the Pennsylvania Supreme Court (i) held that absentee and mail-in ballots mailed by voters via the USPS and postmarked by 8:00 p.m. on Tuesday, November 3, 2020 shall be counted if they are otherwise valid and received by the county boards of election on or before 5:00 p.m. on Friday, November 6, 2020, and (ii) further held that ballots received within this period that lack a postmark or other proof of mailing, or for which the postmark or other proof of mailing is illegible, will be presumed to have been mailed by 8:00 p.m. on November 3 unless a preponderance of the evidence demonstrates that the ballot was mailed after such time.

Certain parties asked the United States Supreme Court to stay the Pennsylvania Supreme Court’s decision. The United States Supreme Court denied that request on October 19, 2020. Therefore, the Pennsylvania Supreme Court’s ruling, summarized above, remains the law.

On Friday, October 23, 2020, certain parties petitioned the U.S. Supreme Court for a writ of certiorari, asking that Court to vacate the Pennsylvania Supreme Court’s September 17 decision and eliminate the three-day extension. Those parties also filed a motion for expedited consideration of their petition. On Monday, October 26, 2020, Secretary Boockvar filed a response to the motion. At this time, both the petition and motion remain pending before the U.S. Supreme Court.

The Secretary continues to defend the extension to ensure that every timely and validly cast mail-in and absentee ballot is counted. Because this issue is still-pending before the U.S. Supreme Court, however, county boards of elections are directed to take the following action to securely segregate mail-in and civilian absentee ballots received by the county board before 8:00 p.m. on November 3 from those received via USPS after 8:00 p.m. on November 3 and before 5:00 p.m. on Friday, November 6:

- 1) All mail-in and civilian absentee ballots delivered by the USPS and received between 8:00 p.m. on Tuesday, November 3, 2020 and 5:00 p.m. on Friday, November 6, 2020 shall be kept separate and segregated from all other voted ballots.
- 2) The county boards of elections shall not pre-canvass or canvass any mail-in or civilian absentee ballots received between 8:00 p.m. on Tuesday, November 3, 2020 and 5:00 p.m. on Friday, November 6, 2020 until further direction is received. These ballots shall be maintained by the county board in a secure, safe and sealed container separate from other voted ballots.
- 3) For every ballot delivered to the county board by the USPS between 8:00 p.m. on Tuesday, November 3, 2020 and 5:00 p.m. on Friday, November 6, 2020, each county board shall maintain an accurate log of the date upon which the ballot was delivered by the USPS to the county board of elections. The log shall include (i) the name and address of the elector, (ii) the date of delivery by the USPS, (iii) whether the ballot return envelope has a legible postmark, and (iv) the postmark date, when present and legible.

The Department of State will promptly update the county boards of elections on how to pre-canvass and canvass the segregated ballots and of further developments related to the Court-ordered extension. County boards should remain alert for further direction regarding the ballots subject to the Supreme Court's decision.

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Version History:

Version	Date	Description
1.0	10.28.2020	Initial document release

Appendix B



**CANVASSING SEGREGATED MAIL-IN AND CIVILIAN
ABSENTEE BALLOTS RECEIVED BY MAIL AFTER 8:00 P.M. ON
TUESDAY, NOVEMBER 3, 2020 AND BEFORE 5:00 P.M. ON
FRIDAY, NOVEMBER 6, 2020**

Date: November 1, 2020

Version: 1.0

On October 28, 2020, the Department of State issued guidance related to the segregation of mail-in and civilian absentee ballots received by mail after 8:00 P.M. on Tuesday November 3, 2020 and before 5:00 P.M. on Friday, November 6, 2020. In doing so, the Department of State indicated it would update the county boards of elections on how to canvass those segregated ballots. That guidance follows:

1. All directions in the guidance issued on October 28, 2020 concerning the segregation and logging of ballots received during this defined post-election period continue to apply. Specifically, mail-in and civilian absentee ballots received by mail after 8:00 P.M. on November 3 and before 5:00 P.M. on November 6 shall be identified and segregated from all other voted ballots and shall be maintained, preserved and appropriately logged as directed in the October 28, 2020 guidance.
2. One authorized representative of each candidate in an election and one representative from each political party shall be permitted to remain in the room in which the ballots are canvassed.
3. By statute, no challenges by authorized representatives or any third party are permitted during canvass of the mail-in and absentee ballots.
4. To facilitate transparency and ensure that all validly cast ballots are counted, it is critically important that county boards maintain accurate records of the disposition of ballots received during this period as directed below.

Canvass Procedures

- Guidance concerning mail-in and absentee ballots previously provided by the Department, including the guidance issued on August 19, 2020, September 11, 2020, and September 28, 2020, continues to apply unless otherwise specified herein.
- The county board of elections shall canvass segregated absentee and mail-in ballots received after 8:00 P.M. on Tuesday November 3, 2020, and before 5:00 P.M. on Friday, November 6, 2020 as soon as possible upon receipt of the ballots and within the period specified by law for the canvass. The canvass meeting shall continue until all segregated absentee and mail-in ballots have been canvassed.
- The county board of elections shall examine the voter declaration on each envelope to ensure that it is executed and signed and verify that the voter's name appears on the approved list of mail-in and absentee voters.
- The county board of elections should set aside and should not open or count any of the following:
 - Ballots cast by any voter who died prior to the opening of the polls on November 3, 2020.
 - Ballots containing a postmark that is after November 3, 2020.
 - Ballots with a missing or illegible postmark containing a voter declaration that is dated after November 3, 2020.

- Ballots (whenever postmarked) received by mail after 5:00 P.M. on Friday, November 6, 2020.
- Additionally, the county board of elections should not open or count any of the following specific types of ballots pending further review as follows:
 - If proof of identification for an absentee or mail-in voter was not received or could not be verified, the ballot should not be counted unless the elector provides proof of identification that can be verified by the county board by the sixth calendar day following the canvassing, or on or before Thursday, November 12.
 - For ballots of voters whose applications were challenged prior to the challenge deadline (5:00 P.M. on Friday, October 30, 2020), those ballots should not be counted pending completion of the challenge procedure in the Election Code. Ballot applications can only be challenged on the basis that the applicant is not qualified to vote. Ballots associated with applications timely challenged on this basis must be placed in a secure, safe, and sealed container until the board of elections schedules a formal hearing on the challenged ballots. The time set for the hearing shall be within three (3) days after November 6. The hearing procedure shall comply with the Election Code and shall be the same procedure for challenged ballots received prior to 8:00 P.M. on Tuesday, November 3, 2020.
- Other than ballots falling into one of the categories set forth above, mail-in and civilian absentee ballots that comply with the Election Code and the Department’s prior guidance shall be canvassed as follows:
 - Ballots with a postmark on or before November 3, 2020 are valid and must be counted.
 - Ballots that lack a postmark or other proof of mailing, or for which the postmark or other proof of mailing is illegible, are presumed to have been mailed by Tuesday, November 3, 2020, and are valid and must be counted, unless a preponderance of the evidence demonstrates that the ballot was mailed after November 3, 2020.
 - County boards of elections are instructed to maintain separate counts for each of the following categories of ballots: (i) ballots with a postmark on or before November 3, 2020 which are counted; (ii) ballots without a postmark (or with an illegible postmark) which are presumed to have been mailed prior to Election Day and which are counted; and (iii) ballots without a postmark (or with an illegible postmark) which are determined by a preponderance of the evidence to have been mailed after Election Day and which are not counted.
- Consistent with the Department’s prior guidance, county boards of elections are instructed to set aside any ballots that lack the inner secrecy envelope and any ballots in

secrecy envelopes that contain any text, mark, or symbol which reveals the identity of the voter, the voter’s political affiliation, or the voter’s candidate preference.

- The county boards of elections shall count, compute, and separately tally the ballots approved for canvassing. These separate ballot tallies shall distinguish between: (i) ballots counted with a postmark prior to November 3, 2020 and (ii) ballots counted with an illegible or no postmark that were presumed to have been mailed on or before November 3.
- Counties shall maintain in a safe and secure location all ballots and ballot envelopes that are canvassed pursuant to this guidance.

Version	Date	Description
1.0	11.1.2020	Initial document release

Appendix C

From: Degraffenreid, Veronica <vdegraffen@pa.gov>

Sent: Tuesday, November 3, 2020 9:10 PM

To: acrouse@adamscounty.us; david.voye@allegHENYcounty.us;
Susan.Neft@AlleghenyCounty.US; mbkuznik@co.armstrong.pa.us;
dmandity@beavercountypa.gov; dbrown@bedfordcountypa.org;
rseaman@countyofberks.com; sseymour@blairco.org; smithkorsr@bradfordco.org;
tfreitag@buckscounty.org; ASheasle@co.butler.pa.us; scrowl@co.cambria.pa.us;
brenda@cameroncountypa.com; lisadart@carboncounty.net; mike@centrecountypa.gov;
mcarney@chesco.org; ccallihan@co.clarion.pa.us; elections@clearfieldco.org;
MBoileau@ClintonCountyPA.com; mrepasky@columbiapa.org; rlittle@co.crawford.pa.us;
bsalzarulo@ccpa.net; jfeaser@dauphinc.org; CSpackman@dauphinc.org; Hagans, Christian;
JacksonMA@co.delaware.pa.us; kfrey@countyofelkpa.com; tfernandez@eriecountypa.gov;
lblosser@fayettepa.org; jahitchcock@co.forest.pa.us; jcbymers@franklincountypa.gov;
khann@co.fulton.pa.us; Judy Snyder; tthompson@huntingdoncounty.net;
dstreams@indianacountypa.gov; klupone@jeffersoncountypa.com; eweyrich@juniataco.org;
medalism@lackawannacounty.org; rwenger@co.lancaster.pa.us; lcvote@co.lawrence.pa.us;
manderson@lebcnty.org; timothybenyo@lehighcounty.org;
shelby.watchilla@luzernecounty.org; flehman@lyco.org; Impratt@mckeancountypa.org;
thall@mcc.co.mercer.pa.us; ppowell@mifflinco.org; smay-silfee@monroecountypa.gov;
KSisler@montcopa.org; FDean@montcopa.org; hbrandon@montourco.org;
ACozze@northamptoncounty.org; nathan.savidge@norrycopa.net; bdelancey@perryco.org;
joseph.lynch@phila.gov; Nick Custodio; nmanzoni@pikepa.org; slewis@pottercountypa.net;
agricoski1@co.schuylkill.pa.us; dbilger@snydercounty.org; voter@co.somerset.pa.us;
hverelst@sullivancounty-pa.us; mrudock@susqco.com; pwhipple@tiogacountypa.us;
gkatherman@unionco.org; sbacker@co.venango.pa.us; lzuck@warren-county.net;
melanie.ostrander@co.washington.pa.us; cfurman@waynecountypa.gov;
jsebastiani@co.westmoreland.pa.us; ssistek@co.westmoreland.pa.us; fkellett@wycopa.org;
sfulrich@yorkcountypa.gov

Subject: URGENT UPDATE (2) - Email from DOS re Canvassing Segregated Ballots Received by Mail After Election

Good Evening,

Please follow the canvassing procedures itemized below to comply with recent guidance issued on November 1, 2020 titled *Canvassing Segregated Mail-in and Civilian Absentee Ballots Received by Mail after 8:00 P.M. on Tuesday, November 3, 2020 and Before 5:00 P.M. on Friday, November 6, 2020*:

The county boards of elections shall count, compute, and separately tally the ballots approved for canvassing and received by Mail after 8:00 P.M. on Tuesday, November 3, 2020 and Before 5:00 P.M. on Friday, November 6, 2020. These separate ballot tallies shall distinguish between the following three categories: i) ballots with a postmark dated prior to or on November 3, 2020; (ii) ballots with an illegible postmark that were presumed to have been mailed on or before November 3; and (iii) ballots with no postmark that were presumed to have been mailed on or before November 3, 2020.

Canvass Procedures

1. Keep all ballots received by mail after 8:00 PM on election day physically separated from the ballots received prior to 8:00 PM on election day.
2. Create three separate new media to tabulate the “canvassed post-election day” ballots as follows: (i) ballots with a postmark dated prior to or on November 3, 2020; (ii) ballots with an illegible postmark that were presumed to have been mailed on or before November 3; and (iii) ballots with no postmark that were presumed to have been mailed on or before November 3, 2020.
3. Label the media to clearly identify the category and that it is to be used for tabulating the ballots canvassed post-election day.
4. Scan the segregated ballots using the labeled media.
5. Print a results report after the ballots are scanned. Label the report clearly as a segregated ballots report.
6. Read the results from the scanned segregated ballots into the election management system in the mail voting reporting group along with the results for all mail ballots.
7. Maintain the “canvassed post-election day” ballots, the results media and the results report together in a safe and secure location.

These procedures will allow you to remove the results from the “canvassed post-election day” ballots after reading them into your election management system. You should also consult with your voting system vendor to confirm these procedures and to identify and address any technological issues.

Note: The term “media” could be different based on voting system vendors. The aim is to have these ballots scanned and votes added to the mail voting reporting group in a manner that can be reversed if necessary.

Veronica W. Degraffenreid | Special Advisor for Elections Modernization
Pennsylvania Department of State
North Office Building, Suite 302
401 North Street | Harrisburg, PA 17120

Appendix D

From: [Marks, Jonathan](#)
To: [Marks, Jonathan](#)
Subject: FW: URGENT Email - US Supreme Court Order re Segregated Ballots (Confirmation Required)
Date: Friday, November 06, 2020 10:25:11 PM
Attachments: [image001.jpg](#)
[2020-11-06 - Justice Alito Order.pdf](#)
[2020-10-28 - PA DOS Segregation Guidance.pdf](#)
[2020-11-01 - Canvassing Segregated Ballot Guidance 1.0.pdf](#)
Importance: High

From: Marks, Jonathan
Sent: Friday, November 6, 2020 10:24 PM
To: Marks, Jonathan <jmarks@pa.gov>; Mathis, Jessica <jesmathis@pa.gov>
Subject: URGENT Email - US Supreme Court Order re Segregated Ballots (Confirmation Required)
Importance: High

Good evening everyone.

Earlier this evening, Justice Samuel Alito issued the attached order regarding ballots received from the U.S. Postal Service after 8:00 p.m. on Tuesday, November 3 and until 5:00 p.m. this evening. Pursuant to the order, and pending further order of the U.S. Supreme Court, all county boards of election are ordered to comply with the guidance provided by the Secretary of the Commonwealth on October 28 and November 1, namely, that (1) all ballots received from the U.S. Postal Service after 8:00 p.m. on Tuesday, November 3 and until 5:00 p.m. this evening be segregated and kept "in a secure, safe and sealed container separate from other voted ballots," and (2) that all such ballots, if counted, be counted separately. The Secretary's guidance is re-attached here for your convenience.

Please confirm by 9:00 a.m. tomorrow morning (Saturday, November 7) that your board will comply with Justice Alito's attached Order and the Department's prior guidance. All county boards of election are expected to immediately confirm and respond to this email. Please reply to both me and Jessica Mathis.

Thank you.

Kind regards,

Jonathan M. Marks
Deputy Secretary for Elections & Commissions
Pennsylvania Department of State
302 North Office Building | Harrisburg, PA 17120
☎ 717.783.2035 📠 717.787.1734
✉ jmarks@pa.gov

