



Act 77 Changes to the Election Code

Act 77 of 2019 makes several changes to the Election Code. Those changes are summarized below. Most of the changes take effect with the Presidential Primary Election on April 28, 2020. Some, however, take effect immediately. For more information, see the entire Act [here](#).

Voter Registration Deadline

The deadline to register to vote is now 15 days prior to an election, rather than 30 days. The deadlines to appeal the denial of a voter registration have also changed. These new deadlines take effect for elections held on or after 4/28/2020. Please note that postmark dates are no longer relevant for timeliness - a voter registration application must be **received** by the county by the 15-day deadline.

Absentee and Mail-In Voting

Pennsylvania has added a new, no-excuse-needed means for voters to vote by mail. It is called Mail-In Voting, and the timelines and process are similar to those for absentee balloting. The primary difference is that mail-in voters do not have to provide any reason or excuse for voting by mail. If a voter qualifies for an absentee ballot, they must still continue to use absentee ballots.

Voters who wish to vote absentee or by mail must still apply for a ballot, which may be done electronically through the Department of State's website or by paper application. Applications for mail-in or absentee ballots must still be received by the county no later than 5 p.m. on the Tuesday before the election, but the time frame for ballot return has been extended. The deadline for a county to receive a mail-in ballot or regular civilian absentee ballot has been extended to 8 p.m. on Election Day. Mail-in ballots or civilian absentee ballots received after this time will not be counted unless a court has extended the deadline.

An individual who receives and votes a mail-in or absentee ballot that is timely received by the county may not vote at their polling place. If a voter requests but does not return their mail-in or absentee ballot by the deadline, they may still deliver the ballot in person to the county elections office until 8 p.m. on Election Day, or if they cannot do so may vote by provisional ballot at their polling place.

The process for obtaining an emergency absentee ballot has been simplified. Multiple individuals may now designate the same individual to deliver their ballots. This envisions a scenario where, for example, the same hospital employee delivers ballots for multiple patients.

Counties are now authorized to begin processing mail-in and absentee applications more than 50 days before the election. Counties may await the result of a court proceeding that would affect the content of ballots before mailing out the ballots but, in any case, counties must begin to send out mail-in and absentee ballots as soon as they are available and no later than the second Tuesday before the election.

Voters with a permanent disability may request to be placed on a permanent absentee voter list. All other voters who wish to vote by mail without an excuse may request to be placed on a permanent mail-in voter list. These individuals will have a ballot application mailed to them by the first Monday in February each year which, if completed and returned, entitles them to receive ballots in the mail for all elections taking place during the remainder of that calendar year and for any special elections through the third Monday in February of the following calendar year.

Over the Counter

County election boards are now required to immediately process walk-in applications for both mail-in and civilian absentee ballots. Voters must be allowed to complete their application request and cast their mail-in or absentee ballot while in the county office. This takes effect for elections held on or after 4/28/2020.

No Straight-Party Voting

Voters will no longer have a shortcut straight-party button to vote for all candidates of one party. This change does not prevent a voter from individually selecting only candidates from one party. This change takes effect for elections held on or after 4/28/2020. It will not apply to special elections held before then.

Poll Workers Compensation

Act 77 alters the compensation structure for district election officials (i.e., judges of elections, inspectors of elections, etc.) This change takes effect for elections held on or after 4/28/2020. Paid compensation shall be fixed by the county board of elections for each election and shall be at least \$75 and not more than \$200. Election officers shall receive additional compensation, as fixed by the board of elections, for participating in election training. Judges of Elections shall receive additional compensation, as fixed by the board of elections, for picking up and returning election materials.

Bond funding – \$90 million

Act 77 authorizes the Department to apply to the Pennsylvania Economic Development Financing Authority (PEDFA) for bond issuance up to \$90 million. These funds will be used to reimburse counties for up to 60 percent of allowable costs for replacing old voting machines with new systems that meet current security and accessibility standards by the 2020 primary. Allowable expenses include new ballot marking devices, scanners, system software, one year of licensing fees, and voting system storage cases. Counties must select their new voting systems by December 31, 2019 and implement them no later than the 2020 primary. Any remaining bond proceeds may be used by the Department to fund grants to purchase county election security equipment.

Requirements for Disapproval or Decertification of Voting Apparatuses

In the future, the Department may not disapprove or decertify a voting system in 50 percent or more of the counties until the Department has submitted a written plan to certain General Assembly officials at least 180 days prior to the effective date of decertification. However, this requirement has no effect on the current decertification process, as this section does not take effect until April 28, 2020.

Nomination Petitions

Circulators of nomination petitions no longer need to be residents of the election district in which they are circulating petitions. Petition circulators now need only complete a statement under penalty of perjury for signature pages, rather than a notarized affidavit. This section takes effect immediately.

Circulators of Nomination Papers

Act 77 codifies caselaw relating to nomination papers. Circulators of papers need not be registered electors in Pennsylvania, and indeed, need not even reside in the state. In addition, circulators now need only complete a statement under penalty of perjury for signature pages, rather than a notarized affidavit. This section takes effect immediately.

Restrictions on Election District Alteration (Census/Redistricting Blackout Period)

Because of redistricting, which will occur in 2021 as a result of the decennial census, election district (precinct) boundaries may not be altered (with a few exceptions) from December 31, 2019, to November 30, 2022, or until all judicial appeals to the 2022 Congressional Redistricting Plan are resolved, whichever occurs later.

County Ballot Printing

The registration-based printing requirement has been replaced with a turnout-based printing requirement. In each precinct, counties must now print at least 10 percent more ballots than the highest number of ballots cast in the prior three elections of the same type (odd-year primary, midterm general, etc.). The exception is in presidential election years, when counties will be required to print at least 15 percent more than the highest number of ballots cast in the prior three presidential elections. However, we believe these new minimums may be too low in many places and strongly urge counties to print more than the minimums outlined above, especially in 2020 when record turnout is expected. The Department will follow up with more guidance.

Canvassing of Ballots

Mail-in and absentee ballots must now be counted centrally at the county board of elections' office, rather than distributed to polling places and counted there. Canvassing may begin no earlier than the close of the polls on Election Day and no later than the third day after Election Day and must be completed no later than the eighth day after the election.

Prohibition on Stickers for Write-in Ballots

The use of stickers and paste-on labels for write-in candidates is now prohibited. Write-in names must be either written or stamped. This change takes effect for elections held on or after 4/28/2020.

Public Records

Counties must maintain additional public records regarding mail-in and absentee ballots, including the date an application is received by the county, the date an application is approved or rejected, the date the election board mails the ballot to the voter, and the date a completed ballot is postmarked and returned to the county.