

CHAPTER 10

ELECTIONS

Authority

N.J.S.A. 19:23-45 et seq., 19:4-10 et seq. and 19:31-6 et seq.

Source and Effective Date

R.1991 d.191, effective April 15, 1991.
See: 23 N.J.R. 288(b), 23 N.J.R. 1145(a).

Executive Order No. 66(1978) Expiration Date

Chapter 10, Elections, will expire April 15, 1996.

Chapter Historical Note

All provisions of this chapter became effective September 25, 1974 as R.1974 d.270. See: 6 N.J.R. 356(a), 6 N.J.R. 412(b). Revisions became effective May 1, 1975 as R.1975 d.114. See: 7 N.J.R. 173(b), 7 N.J.R. 278(a). New rules became effective April 21, 1976 as R.1976 d.119. See: 8 N.J.R. 253(a). New rules became effective November 23, 1976 as R.1976 d.375. See: 8 N.J.R. 484(b), 8 N.J.R. 42(b). Amendments became effective June 9, 1977 as R.1977 d.205. See: 9 N.J.R. 187(a), 9 N.J.R. 346(c). Further amendments became effective July 29, 1977 as R.1977 d.271. See: 9 N.J.R. 443(b). Further amendments became effective March 15, 1979 as R.1979 d.105. See: 11 N.J.R. 203(c). Chapter 10 was repealed and replaced by R.1986 d.32, effective February 18, 1986. See: 17 N.J.R. 2381(a), 18 N.J.R. 422(a). Subchapter 6, Voting Accessibility for the Elderly and Handicapped was adopted by R.1988 d.450, effective September 19, 1988. See: 20 N.J.R. 1527(a), 20 N.J.R. 2378(a). Pursuant to Executive Order No. 66(1978), Chapter 10 expired on February 18, 1991 and was readopted as a new rule by R.1991 d.191, effective April 15, 1991. See: Source and Effective Date.

See section level annotations for specific rulemaking activity.

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SUBCHAPTER 1. VOTER REGISTRATION BY MAIL

15:10-1.1 Availability of forms; reasonable quantity defined

(a) A bona fide organization or individual candidate for public office may request a reasonable quantity of voter registration forms from the county voter registration official of the county or counties in which the organization operates or the candidate is seeking public office. The number requested shall be limited to two percent of the total number of registration forms which the county voter registration official has available at the time of the request. There shall be no limit as to the number of requests that such an organization or candidate may make. The county voter registration official shall maintain a record of all organizations and individual candidates requesting 100 or more such forms.

(b) An individual, who is not a candidate for public office, may request in person from the county voter registration official of each county up to 25 voter registration forms, and shall be entitled to the forms. There shall be no limit as to the number of requests such an individual may make. An individual making such a request by telephone shall be entitled to at least two forms.

(c) The term "organization" shall be defined as broadly as possible for purposes of these rules.

15:10-1.2 Reordering forms; notification

When the supply of voter registration forms has reached a level of 25 percent of the amount of such forms previously allocated to a county, the county voter registration official shall notify the Office of the Secretary of State, which shall then take appropriate steps to supply the county with an adequate number of forms to meet reasonably expected needs.

15:10-1.3 Acceptance of photocopies and reproductions of form

(a) The county voter registration official shall accept and validate legible photocopies and reproductions of voter registration forms, provided that such photocopied or reproduced forms comply with the provisions of these rules and applicable statutory requirements.

(b) The county voter registration official may adopt a numbering system or other method of identifying the supply of voter registration forms, but such system or method shall not be used to prevent the acceptance and validation of voter registration forms which would otherwise be valid.

(c) Any photocopies and reproductions must be true facsimiles of the official voter registration form.

15:10-1.4 Acceptance of registrants after the 29th day before any election

(a) Any form not postmarked, but dated by the registrant on or before the 29th day before any election shall be deemed timely, provided that the registration form is received by mail not later than the 25th day prior to the election. If the 25th day prior to the election falls on a day when the county voter registration office is not open, then the deadline is extended to the first business day thereof.

(b) Any registrant whose timely voter registration form was rejected by the commissioner of registration, superintendent of election, or Secretary of State, on or before the 29th day prior to any election and whose validly completed form is received by the commissioner of registration or superintendent of elections, whichever appropriate, at any time before the day of an ensuing election shall be entitled to vote in that election.

15:10-1.5 Completion of the form

(a) A registrant must complete the voter registration form and have the voter registration form witnessed by a qualified voter of this State. The witness may supply the county of his residence, but shall supply his street address and the municipality wherein the witness resides.

(b) The county voter registration official shall place the original voter registration form onto the original permanent registration form that is used by the district board of elections at any election; and shall place a photocopy or other facsimile of the voter registration form onto the duplicate permanent registration form.

(c) In order for the registrant to be deemed validly registered, the following items on the voter registration form must be completed in the following manner:

1. The printed name of the registrant is validly completed if the registrant's entire last name and the first initial appears on registration form. Failure to insert the whole first and/or middle name(s) or middle initial shall not render the form invalid.

2. The address of the applicant is validly completed by supplying the street address, municipality and county. The supplying of a rural mailing address or post office box number without supplying a street address shall render the form invalid. Failure to supply an apartment number or zip code shall not render the voter registration form invalid.

3. Failure to supply a rural mailing address, shall not render the voter registration form invalid. The county voter registration official may, in his discretion, make an investigation to determine the proper information for this item.

4. The date is validly completed if the statement "over 18 years" or its substantial equivalent is placed on the registration form by the registrant. The registration form shall also be deemed validly completed if, by statement of year of birth, the registrant could only be over 18 years of age, even if the day and/or month of birth are not completed. If it appears that the registrant is 17 years of age, the entire birth date must be complete for item 4 to be validly complete.

5. Failure to designate the prior place of registration shall not render the form invalid.

6. The form is validly completed by checking one of the appropriate boxes either native born or naturalized citizen. Failure to supply the location and/or date of naturalization shall not render the form invalid.

7. The signature is validly completed by supplying the full and last name and the insertion of a date. Signature in pencil shall not invalidate the registration form; however, the registrant shall be required to submit his signature in ink on the first occasion that he wishes to vote. If the registrant's legal "signature" is a form of printing, the printed name shall be valid.

8. Witness information is validly completed by insertion of the first initial, the entire last name of the witness, and the signature of the witness. The witness must also supply an address which is sufficient so that the county voter registration official may contact the witness if he so desires. The witness must also date his signature. Failure to insert county, full first, and/or middle names, middle initial or zip code shall not render the form invalid.

9. The form shall be rendered invalid if the date of witnessing is earlier than the date of signature. If the date of witnessing is on or after the date of signature, a difference in the dates shall not render the form invalid.

(d) The county voter registration official may request a mail registrant to complete any omitted or incomplete items on the registration form the first time the registrant appears to vote.

(e) The Secretary of State, or county voter registration official, may reject any voter registration form if the county of residence is not ascertainable from the submitted form. In the event the form is returned, the appropriate officer shall notify the registrant pursuant to N.J.A.C. 15:10-1.6 with instructions to forward to the appropriate county voter registration official.

Amended by R.1993 d.54, effective January 19, 1993.

See: 24 N.J.R. 736(a), 24 N.J.R. 1688(a), 24 N.J.R. 2531(a), 24 N.J.R. 320(a).

Added new (c)9.

Case Notes

Female who had been injured by ex-husband was entitled to register to vote without making her address matter of public record. D.C. v. Superintendent of Elections, 261 N.J.Super. 366, 618 A.2d 931 (L.1992).

15:10-1.6 Notification to registrant

(a) When the voter registration form is accepted or rejected, the registrant shall be notified by regular mail.

(b) If a voter registration form is rejected, the denied registrant shall be notified in writing of the precise reason(s) for the rejection, and of the manner by which the reason(s) for rejection may be cured. If the form is rejected because of an omission, the county voter registration official shall return to the denied registrant the incomplete form; otherwise, the commissioner shall send a blank voter registration form. If a form ultimately rejected was received by the county voter registration official in accordance with N.J.S.A. 15:10-1.4(a), the attempted registrant shall be notified in writing of the right to vote in the immediately ensuing election in accordance with N.J.A.C. 15:10-1.4(b).

(c) On the face of such notification in the upper left-hand corner shall be printed the words: "Do Not Forward. Return Postage Guaranteed. If Not Delivered In Two Days, Return to Superintendent of Elections." In those

counties not having a superintendent of elections, the form shall be returned to the "Commissioner of Registration."

15:10-1.7 Signatures

(a) When a mail registrant attempts to vote for the first time, such voter must sign his or her name on the reverse side of the permanent registration form maintained by the county voter registration official.

(b) The signatures on the voter registration form and the reverse side of the permanent registration form must match before the voter will be allowed to vote.

15:10-1.8 Sample and instruction ballots

(a) In election districts where the primary language of the registered voters is Spanish, the sample ballots for primary and general election shall be printed bilingually in English and Spanish in their entirety, excepting names of candidates, including public questions, and mailed to each registered voter.

(b) In such election districts, ballots together with such sample instructions printed bilingually in English and Spanish shall be displayed prominently at all such polling places on election day.

(c) The official primary and general election ballots in the actual voting booth at the polling place need not be printed bilingually.

15:10-1.9 Out-of-office registration

(a) The statutory term "out-of-office registration" shall be defined as broadly as possible to include all registration conducted by the county voter registration official at any location other than his office. Out-of-office registration facilities may be stationary or fixed vehicles or buildings, or mobile vehicles. The nature, number and route of any moving facility shall be subject to approval by the Secretary of State.

(b) The place or places designated by the county voter registration official other than his office shall be publicized in a newspaper circulated in the municipality, containing such designated place or places. The publication shall include the addresses and dates and hours of operation of such designated place or places and shall be made pursuant to N.J.S.A. 19:12-7. Nothing in these rules shall prohibit a county voter registration official from voluntarily publicizing the places designated more than is required by these rules.

(c) Whenever any individual or organization, other than the commissioner of registration, superintendent of elections, the commissioner's or superintendent's duly authorized clerk, conducts registration activities, whether by door-to-door canvassing, mobile techniques or otherwise, there need be no publication whatsoever by the individual, organization, commissioner or superintendent.

15:10-1.10 Secretary of State as agent for purposes of mail registration

(a) The Secretary of State shall be an agent of each county voter registration official. Completed voter registration forms may be returned to the Office of the Secretary of State, Election Division, CN-304, Trenton, New Jersey, 08625-0304. The Secretary of State shall cause such forms to be immediately forwarded to the appropriate county voter registration official.

(b) Voter registration forms may also be filed directly with the appropriate county voter registration official.

SUBCHAPTER 2. VOTER DECLARATION OF POLITICAL PARTY**Law Review and Journal Commentaries**

Elections—Primaries—Secretary of State. P.R. Chenoweth, 134 N.J.L.J. No. 4, 57 (1993).

15:10-2.1 General provisions

(a) A voter becomes a member of a political party by either:

1. Having voted in a previous primary of that party;
2. By filing a declaration of membership in that party. The declaration must be signed and filed with the municipal clerk or appropriate county election officer no later than the 50th day preceding the primary. However, a voter who has not previously voted in a party primary may vote in any primary without filing any declaration.
3. By being a member of the county committee of the party of a public official holding office to which he has been elected or appointed as a member of that political party.

(b) In the event such day falls on a Saturday, Sunday, or legal holiday, the county voter registration official shall accept as timely filed those voter declaration cards which he receives on the first regular business day following the 50th day before the primary election.

Case Notes

Signatures of unregistered votes on nominating petitions for state office were invalid. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voter could sign nominating petition prior to signing declaration form. *Mayer v. Addison*, 265 N.J.Super. 171, 625 A.2d 1143 (A.D.1993), reversed 93 N.J.A.R.2d(STE) 1, certification denied 133 N.J. 442, 627 A.2d 1147.

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

Nominating signature of individual identified as registered in another party was not invalid. *Garcia v. DuVal*, 95 N.J.A.R.2d (STE) 10.

Candidates with insufficient signatures on nominating petition were disqualified. *Republican Assembly Majority v. Cromar*, 95 N.J.A.R.2d (STE) 8.

Candidate with nominating petitions containing insufficient ballot signatures were disqualified. *Republican Assembly Majority v. Cortes*, 95 N.J.A.R.2d (STE) 7.

Insufficient qualified signatures on nominating petitions precluded appearance on ballot. *Republican Assembly Majority v. Bhalla*, 95 N.J.A.R.2d (STE) 5.

Nominating petitions with less than required number of registered signatories were invalid. *Assembly Republican Majority v. Albano Jr.*, 95 N.J.A.R.2d (STE) 1.

15:10-2.2 Who must file declarations

(a) To determine whether a voter must file a declaration, three steps should be followed:

1. It must be determined whether the voter has ever voted in a primary election under the voter's current registration;
2. If so, it must be determined in which political party primary the voter participated when the voter cast the most recent primary ballot;
3. If the voter now wishes to participate in the primary election of a different political party, the voter must file a declaration.

(b) A voter who has never previously participated in a primary election under the voter's current registration need not file a declaration of party preference.

(c) If a voter cast a ballot in a primary several years ago, that voter must file a declaration in order to vote in the primary of another party. The passage of time has no effect on the status of the voter as a member of a political party. However, if a voter cast a ballot in a primary under a previous registration, even though that registration was in the same county, the voter is still deemed not to have voted in a previous primary under the voter's current registration.

Law Review and Journal Commentaries

Elections. Steven P. Bann, 134 N.J.L.J. No. 11, 45 (1993).

Case Notes

Voters must be registered to be considered "qualified" to sign party nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

15:10-2.3 Responsibilities of municipal clerks

(a) Municipal clerks should obtain and have available for distribution voter declaration forms.

(b) Upon receipt of a signed declaration or a written statement declaring political party membership, the municipal clerk should mark on the form or statement the date on which it was filed with him or her.

(c) The municipal clerk should accurately maintain a registry of declarations received showing the name and address of the voter the political party declared and the date received.

(d) Once it has been dated and recorded, the municipal clerk should submit the form or statement to the county voter registration official.

(e) Appropriate measures should be taken to insure that the forms are properly delivered in the condition in which they were received. Immediately after the expiration of the deadline for the receipt of forms (that is, 50 days before the primary election), the municipal clerk should deliver those forms in his possession to the county voter registration official.

(f) In the event that declaration forms or statements are lost or damaged in transit, the municipal clerk may rely upon the records maintained by him or her to advise the county voter registration official of the declarations received, but this measure should only be used after all reasonable means of locating or repairing the original forms or statements have been exhausted.

15:10-2.4 Responsibilities of county election officers

(a) The superintendent of elections in all counties having a superintendent of elections and the commissioner of registration in all other counties has complete responsibility for the permanent registration of all eligible voters within their respective counties and for the enforcement of the provisions of N.J.S.A. 19:23-45 et seq.

(b) The appropriate county election officer must distribute the declaration forms prepared by the Department of State to all municipal clerks and to other sources where, in the judgment of the officer, there is a substantial likelihood that such forms will be distributed to the voting public.

(c) Upon receipt of a signed declaration form or statement, the election officer should immediately mail an acknowledgment to the voter indicating the political party the voter declared. The acknowledgment must also indicate that, if the voter believes that he or she has not filed a declaration, or that an error has occurred, the voter must so advise the officer by either personally appearing, writing or telephoning within two weeks. The voter must be informed that, in the absence of any response, the voter will be deemed to be a member of the political party declared. In

the event a voter submits a written, signed statement to the effect that he or she has not filed a declaration or that an error occurred, whatever the case may be, the records of the commissioner of registration or superintendent of elections shall reflect this action.

Case Notes

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

15:10-2.5 Appearance at polls; declaration not required from excused voters

Voters who are not required to file a declaration card under N.J.S.A. 19:23-45 do not have to make a written declaration when appearing at the polls to participate in the primary election. It is sufficient that the voter proceeds to vote in the primary of one party and is thereby deemed to be a member of that party.

15:10-2.6 Method of filing declaration of political party membership

(a) The Department of State has prepared party declaration forms which may be obtained from the appropriate county voter registration official or municipal clerk. Upon filling out the form the voter shall file the completed form with the superintendent of elections or commissioner of registration, whichever appropriate, in the county in which he resides. The voter may also file the party declaration form with the municipal clerk of the municipality wherein he resides.

(b) Any voter wishing to file a declaration of political party membership is not required to use those forms provided by the Secretary of State. However, the voter should prepare a written statement indicating that he or she is a member of a political party. The statement should be signed by the voter. The name and full address should appear and the statement should be dated by the voter.

Law Review and Journal Commentaries

Elections. Steven P. Bann, 134 N.J.L.J. No. 11, 45 (1993).

Case Notes

Voters must be registered to be considered "qualified" to sign party nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

15:10-2.7 Effect of prior registration and voting

(a) Any voter who has voted in a primary election under a current registration shall vote in the same party as he or she has previously voted, unless the voter has filed a party declaration form in accordance with these rules.

(b) If a voter has registered to vote in a previous year, but has failed to vote in any primary election, then at the first primary election which the voter wishes to vote, he shall declare the party in whose primary he wishes to vote. The voter shall then be allowed to vote in the primary of the political party of his declared choice.

15:10-2.8 Availability of declaration forms

(a) A bona fide organization or individual candidate for public office may request a reasonable number of declaration forms from the county voter registration official in each county in which the organization functions or where the candidate is seeking public office. The number requested may be limited to two percent of the total number of declaration forms which the appropriate election official has available at the time of such request. There shall be no limit as to the number of requests that such a candidate or organization may make. The appropriate election official shall maintain a record of all organizations and individual candidates requesting 100 or more forms.

(b) Any individual who is not a candidate for public office, may request from the appropriate election official of each county up to 25 declaration forms and shall be entitled to those forms. There shall be no limit as to the number of requests such an individual may make. An individual making such a request by telephone shall be entitled to at least two such forms.

(c) The term "organization" shall be defined as broadly as possible for the purposes of these rules.

(d) Declaration forms shall be prepared in the Spanish language for use by individuals or organizations requesting them.

Case Notes

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

SUBCHAPTER 3. ELECTION DISTRICT MAPS

15:10-3.1 General provisions

(a) The county board of elections shall cause to have prepared an up-to-date map of the county and of each constituent municipality clearly delineating the boundary of each election district (established in conformance with N.J.S.A. 19:4-10 et seq.), contained therein and of each ward contained therein. Maps shall also be maintained showing all legislative districts, freeholder districts, and congressional districts, or part thereof which are within the county. A word description of said boundaries shall be attached to each such map.

(b) The county board of elections shall file three copies of such maps and descriptions with the Secretary of State. One copy of each such map and description shall also be filed with the county clerk. A copy of the municipal map shall also be filed with the clerk of the appropriate municipality. Within 30 days of any changes in the boundaries of any of the aforementioned districts, the county board of elections shall file revised maps and descriptions in the same manner.

(c) Election district boundaries shall follow visible, easily recognized features (for example, streets, railroad tracks, drainage features such as streams, creeks and lakes, and topographical features such as ridges) which are to be indicated on the various maps.

(d) Election district boundaries shall be drawn in red. Where the boundary of an election district and the boundary of a constituent municipality or a county line are the same, the common boundary shall be shown as a single green line. The boundaries of wards shall be drawn as an orange line drawn adjacent to the election district boundary.

(e) Where the election district boundary coincides with a county or municipal boundary which does not follow a physical feature, the first address number (in rural areas, the first rural route box number) on either side of the boundary shall be listed on the map next to the boundary. If there are no address numbers or box numbers near the respective sides, both sides shall be marked with a zero.

(f) The number of each election district shall be clearly shown in red within its boundaries.

(g) The accuracy of the election district boundaries shall be certified on each map sheet by the county board of elections, or by its designated agent, as follows: "I certify that, to the best of my knowledge, the election district boundaries shown on this map are those legally in effect and are accurate of this date." This statement shall be signed and dated, and the title of the signer shall be indicated.

(h) No election district shall be divided during the period commencing 75 days before the primary or the general election. No election districts shall, except with the prior approval of the Secretary of State, be created, abolished, divided or consolidated between January 1 of a year whose last digit is seven, and December 1 of any year whose last digit is zero.

(i) Failure to follow the color requirements for these maps shall cause rejection of them by the Secretary of State.

15:10-3.2 Maps of counties; specifications

(a) The county map shall clearly delineate the boundaries of the constituent municipalities.

(b) The size of the map shall conform to the provisions of N.J.S.A. 46:23-9.11(b). These maps shall be one of four standard sizes; namely:

1. Eight and one-half inches by 13 inches; or
2. Thirty inches by 42 inches; or
3. Twenty-four inches by 36 inches; or
4. Fifteen inches by 21 inches.

(c) These dimensions shall be measured from cutting edges. The scale of the map shall be clearly indicated on the map. The date (month/year) of the map shall be indicated. If the map has been updated, the date (month/year) shall be shown.

15:10-3.3 Maps of municipalities; specifications

(a) The municipal map shall not exceed 30 inches by 42 inches. The scale shall not be so small that the information on the map is difficult to read. The scale should generally range between one inch = 800 feet and one inch = 1,600 feet. The scale should be clearly indicated on the map. Each municipal map shall, wherever practicable, be composed of one sheet and, where not practicable, of a series of sheets, in which event all maps of a series shall be of the same scale.

(b) Maps shall include all existing roads and streets. "Paper" or undeveloped streets or roads (that is, those for which no scraping or road bed has been taken) shall not be shown. Railroad tracks and major drainage features (for example, rivers, lakes, creeks, streams, etc.) shall be shown and the names of such features shall be indicated.

(c) Other features or symbols (for example, churches, schools, factories, underground utility lines, land use and zoning symbols or shadings, symbols for vegetation cover, topographic contour lines, and similar items that obscure the basic street and road pattern and names) shall be excluded. All features, names, titles and symbols shall be clearly shown and legible.

(d) The effective date (date/month/year) of the current municipal boundary, if different from that in effect on January 1, 1980, shall be specified on the map.

15:10-3.4 Maps of congressional, legislative and freeholder districts

(a) The boundaries of congressional districts shall be shown by a thin broken line (— — —) or yellow line drawn adjacent to the election district boundary line. The boundaries of legislative districts shall be shown by a thin dotted line (. . .) or blue line drawn adjacent to the election district boundary line. The boundaries of county freeholder districts, where such freeholder districts are established, shall be shown by a thin broken and dotted line (— . — . —) or brown line drawn adjacent to the election district boundary.

SUBCHAPTER 4. ABSENTEE BALLOTS

15:10-4.1 Printing absentee ballot applications

(a) The reproduction of absentee ballot applications, under the statute (N.J.S.A. 19:57-8), is the responsibility of the county clerks at the cost and expense of the individual counties.

(b) The requirements of the Secretary of State are:

1. The applications be printed in post card style;
2. The size be four inches wide by 9¼ inches long (to be mailed in a number 10 envelope);
3. Be printed on sufficient quality cardboard stock to withstand printing and mailing;
4. There be no additions, deletions or changes from the prescribed form and text, except as incidental to printing;
5. Each county clerk shall print, type or stamp the clerk's name and address on the mailing panel and insert the name of the county on the military form in the space provided for the home address of the applicant.

15:10-4.2 Completion requirements; civilian absentee ballot application; generally; authorized messenger

(a) The completed civilian absentee ballot application must be received by the appropriate county clerk not later than seven days prior to the election unless the applicant applies in person or is sick or confined.

(b) If the applicant is sick or confined, an authorized messenger may deliver the application to the appropriate county clerk's office before 3:00 P.M. on the day prior to the election. Both the applicant and the authorized messenger must complete the application if the applicant is sick or confined.

(c) The text of the civilian absentee ballot application is hereby made a part of these rules. Copies of such text may be obtained from the Office of the Secretary of State.

Case Notes

Unsuccessful school district candidate failed to prove irregularities and illegal voting affected outcome. *I/M/O The Inquiry into the 1991 Annual School Election Held in the Pennsauken Twp. School Dist.*, 92 N.J.A.R.2d (EDU) 396.

SUBCHAPTER 5. DEFINITIONS

15:10-5.1 County voter registration official; defined

The county voter registration official is the commissioner of registration or the superintendent of elections, whichever title is applicable in a particular county.

SUBCHAPTER 6. VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED

15:10-6.1 Purpose and scope

Public Law 98-435, the Voting Accessibility for the Elderly and Handicapped Act, was signed into law on September 28, 1984. The purpose of the Act is to improve access to polling places and registration facilities for the elderly and handicapped voters for Federal elections. The Act applies to Federal elections conducted after December 31, 1985.

15:10-6.2 Responsibility

Pursuant to the Act, the political subdivision of each state which is responsible for conducting elections must "assure" that all polling places are accessible to elderly and handicapped voters. In New Jersey, it is the 21 county boards of elections which are responsible for the selection of polling places within their respective jurisdiction.

15:10-6.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Accessible" means an environment that will permit handicapped and elderly persons to operate independently with comparative ease under normal circumstances and with little or no assistance.

"Accessible route" means a continuous, unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a handicapped person. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.

"Act" means the Voting Accessibility for the Elderly and Handicapped Act, Public Law 98-435.

"Barrier-free" means the same as and is synonymous with "accessible".

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Elderly" means 65 years of age or older.

"Election aids" means telecommunication devices, sample ballots, large print voting instructions, and absentee ballots.

"Federal election" means a general, special, primary, or runoff election for the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"Handicapped" means having a temporary or permanent physical disability.

"Physically handicapped" means a person with a physical impairment which confines a person to a wheelchair, causes a person to walk with difficulty or insecurity, affects the sight or hearing to the extent that a person functioning in public areas is insecure or reduces mobility, flexibility, coordination and perceptiveness to the extent that facilities are needed to provide for the safety of that person.

"Polling location" means the structure in which a polling place is located.

"Polling place" means the room or space that has been provided for the purpose of voting at a Federal primary, special, or general election.

"Polling Place Accessibility Checklist" means worksheets prepared by the Secretary of State in order that each county board of elections can evaluate the accessibility of polling sites within their jurisdiction.

"Polling Place Accessibility Report" means a worksheet prepared by the Secretary of State in order that each county board of elections can compile accessibility results from their Polling Place Accessibility Checklists.

"Polling Place Accessibility Waiver" means a worksheet developed by the Secretary of State, to be used by the county board of elections to request exemption(s) from the Act due to the inability to make an inaccessible polling site accessible, or to relocate such a site to an alternative accessible location.

"Ramp" means a structure, either temporary or permanent, which has been constructed to bridge any change in level of five feet or less on an accessible route of travel to a polling place.

"Secretary of State" means the Secretary of State of New Jersey.

"Temporary" means a facility or structure that is not of permanent construction but is extensively used or essential for public use during Federal elections.

"Voting Accessibility Advisory Committee" means a group of individuals that may be established by each county board of elections to assist the board in interpreting and implementing the provisions of the Act.

15:10-6.4 Exceptions

(a) The accessibility requirements of this subchapter do not apply under the following circumstances:

1. In the case of an emergency;
2. If the Secretary of State determines, based on documents supplied by the county, the following:

- i. That all potential polling places in the election district have been surveyed and no accessible locations are available;
 - ii. That it is not possible to temporarily convert an inaccessible location to an accessible one; and
 - iii. That an alternative voting procedure in accordance with N.J.S.A. 15:10-6 is available upon request;
3. In any election other than a Federal election as defined in this subchapter.

15:10-6.5 Reporting by the Secretary of State

The Secretary of State is required to report to the Federal Election Commission, no later than December 31st of each even-numbered year, the number of accessible polling places and reason(s) for any instance of inaccessibility.

15:10-6.6 Enforcement

The United States Attorney General or any individual who is personally aggrieved by any non-compliance with the accessibility requirements of the Act and this subchapter may institute an action for declaratory or injunctive relief in the United States District Court for the District of New Jersey.

15:10-6.7 Implementation

(a) In order to assist and advise county election officers in implementing the provisions of the Act, each county board of elections office should establish a Voting Accessibility Advisory Committee, which shall be comprised of the following individuals:

- 1. The four members of the county board of elections;
- 2. At least one elderly and handicapped individual or individuals from organizations representing such individuals;
- 3. Such person(s) trained in the provisions of the Barrier Free Subcode; and
- 4. Such person(s) the board feels would be of assistance in the implementation of the Act.

(b) In order to accurately evaluate the accessibility of all polling locations, each county board of elections and/or their designated representatives, in conjunction with their Voting Accessibility Advisory Committee, should one have been established, shall undertake a "walking tour" of each polling location. Both elderly and handicapped committee members should participate in such tours since these individuals can offer valuable insight into possible difficulties elderly and handicapped voters may experience at polling locations.

15:10-6.8 Polling place accessibility standards

(a) The polling place accessibility standards set forth in the following sections are based upon the State's Uniform Construction Code, Barrier Free Subcode, N.J.A.C. 5:23-7.

(b) While accessible parking spaces for each polling location are desirable, the absence of such spaces is not a condition of accessibility. Where such spaces are required to be provided, such parking spaces shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

1. Parking spaces for the handicapped shall be located as close as possible to elevators, ramps, walkways, and the accessible entrance they serve. Parking spaces shall be as level as possible. Each parking space shall be identified with an above grade sign displaying the International Symbol of Accessibility and appropriate wordage to include "DISABLED PERSONS WITH VALID ID ONLY".

2. In all configurations, to the degree feasible, accessible parking spaces shall be located so that handicapped persons are not compelled to wheel or walk behind parked cars. Additionally, in all configurations, ramps or curb ramps shall be provided to permit handicapped persons access from the parking lot level to the servicing walkway. A curb ramp shall never be located where it would be blocked by a parked vehicle. In all configurations, provisions such as curb or bumpers should be included to prevent parked vehicles from blocking accessible walkways.

3. In the event that a polling location does not have permanent accessible parking spaces, temporary spaces can be designated for use by the handicapped. All such temporary accessible spaces shall be clearly marked for use only by the handicapped and all such spaces shall be located near an accessible polling place entrance.

4. In the event that off street metered parking is provided, such accessible parking spaces shall be reserved for the handicapped by installing a meter cap over the meter. Such spaces should also be clearly marked for handicapped use only.

(c) Accessible routes of travel are continuous, unobstructed paths connecting all accessible elements and spaces that can be negotiated by a handicapped person. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts. Interior accessible routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. The standards for accessible routes shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

(d) All ramps and curb ramps on accessible routes shall comply with the Barrier Free Subcode, except those curb cuts or curb ramps constructed within a public street. These structures shall meet the requirements of the respective public, city, county, or State agency having jurisdiction.

(e) Accessible entrances shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

1. All accessible entrances shall be identified by the "International Symbol of Accessibility".

2. Doors should be easily opened by elderly and handicapped individuals. Handles, pulls, latch sets, and other operating hardware that are easy to grasp with one hand and do not require twisting of the wrist, tight grasping, or tight pinching to operate shall be provided. If possible, exterior doors and nonfire doors which are difficult to open should be propped or tied open during voting hours.

3. In the event that an elevator is to be used, its doors, interior and controls shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

4. Should the main entrance to a polling place be inaccessible, an accessible alternative entrance may be used. All such alternative entrances, however, shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7. Signs informing voters of an alternative accessible entrance shall be clearly posted and shall display the "International Symbol of Accessibility" as well as appropriate wordage to include "ACCESSIBLE ENTRANCE". To be effective, either arrows or hands shall be used to direct voters to accessible entrances.

(f) Accessible interior routes may include corridors, floors, ramps, elevators, lifts and clear floor space at fixtures. All such accessible routes shall conform to the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7.

1. Interior routes to voting machines that are in excess of 50 feet shall provide a chair(s) in order to provide elderly and disabled voters a resting stop. Such chairs, however, shall not project into the minimum required clear widths.

(g) Signs shall meet the following standards:

1. Signs directing voters to the location(s) of voting machines shall be posted in interior passageways. Such signs shall include appropriate wordage to include "VOTING MACHINES" as well as "WARD-DISTRICT OR DISTRICT". Lettering should be in large type of at least 18 point for easy reading.

2. To be effective, signs should also use either arrows or hands to point to the direction of the voting machines. Signs using these symbols are easier to understand than ones that only use written directions.

15:10-6.9 Voting aids

(a) The following voting aids shall be provided:

1. Sample ballots which shall identify the accessibility of each polling place. The notice of accessibility shall be prominently identified on the sample ballot with a sign displaying the "International Symbol of Accessibility" and appropriate wordage to include "ACCESSIBLE POLLING LOCATION". Notice of nonaccessible polling locations shall be prominently identified on the sample ballot with appropriate wordage to include "NONACCESSIBLE POLLING LOCATION—ABSENTEE BALLOT AVAILABLE; CONTACT COUNTY CLERK".

2. Voting instructions which shall be printed in at least 14 point type for easy reading and shall be conspicuously displayed at each polling place. Lettering shall be dark, preferably black, with a light background, preferably white. Such instructions shall include, but shall not be limited to:

- i. How to properly identify oneself at the polls;
- ii. Materials that one must sign in order to vote;
- iii. Procedures to follow in order to correctly use the voting machine or voting equipment to cast votes;
- iv. Procedures to follow should mechanical difficulties be experienced while voting; and
- v. How to correctly exit the voting machine in order to properly record votes.

3. Registration, voting, and election information by telecommunication device, or TDD, are required under the Act. County boards of elections will be required to advertise the availability of TDD equipment and telephone numbers in a newspaper or newspapers which, singly or in combination, are of general circulation throughout the county. Such advertisement shall be published once during the 30 days next preceding the day fixed for the closing of the registration books for the primary election, once during the calendar week preceding the week in which the primary election is held, once during the 30 days next preceding the day fixed for the close of the registration books for the general election, and once during the calendar week next preceding the week in which the general election is held. Boards not maintaining and operating TDD equipment are required to advertise the State's "toll-free" TDD telephone number in the manner prescribed above.

4. The availability and use of absentee ballots are subject to the following requirements:

i. Handicapped and elderly voters may apply to the county clerk for absentee ballots. Should disability be permanent, affected voters may request that absentee ballot applications for each election be sent to their residence on a regular basis. In the event that the date for requesting an absentee ballot by mail should pass, a sick or confined voter may request in writing that an absentee ballot be picked up from the county clerk and delivered to him or her by a messenger authorized by such voter. Disabled voters are not required to medically document their disability. Absentee ballots shall be completed and returned in accordance with the requirements of N.J.S.A. 19:57-23.

ii. In the event that a polling location has been reported inaccessible by the county board of elections and such board has not been able to correct any instances of inaccessibility, or has been unable to relocate such polling location to an accessible site, affected elderly and handicapped voters may apply for an absentee ballot.

5. Voter assistance at a polling place shall be provided as follows:

- i. Pursuant to P.L. 97-208, the 1982 Amendments to the Federal Voting Rights Act, any voter who requires assistance to vote by reason of blindness or disability may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union.

15:10-6.10 Reporting by county boards of elections; accessibility waivers

(a) Each county board of election office is legally responsible, under Public Law 98-435, for not only implementing the provisions of the Act, but for documenting compliance. In order to fulfill the requirements of the Act, each county board of elections office shall report to the Secretary of State, no later than September 30, in those years Federal elections are to be conducted, the accessibility status of each polling place located within their jurisdiction. All such reports are to be prepared on the following forms provided by the Secretary of State.

1. Each county board of elections office is required to complete a "Polling Place Accessibility Checklist" for each polling place located within their jurisdiction. This checklist requires the members of the county boards of elections, or individuals designated by the board, and/or members of their Voting Accessibility Advisory Committee, where such committees exist, to physically evaluate the accessibility status of parking facilities, exterior and interior routes of travel, ramps and curb ramps, and entrances of each polling place. Evaluations are required to note the accessibility status of each area and to provide comments where needed. Based upon Polling Place Accessibility Checklist evaluations, each county board of elections is required to determine and to note the accessibility of each polling place.

2. In instances where a polling place is determined to be inaccessible and is reported as such, a "Polling Place Accessibility Waiver Form" shall be completed and attached to the inaccessible polling place's accessibility checklist. The Secretary of State is provided authority to grant a waiver, in certain cases, to polling places which have been evaluated as inaccessible. In order for the Secretary of State to consider granting any waivers for inaccessible polling places, affected county boards of elections shall not only complete the required waiver form, they shall also document on this form the measures that their office has undertaken to either make this polling location accessible or to relocate such an inaccessible polling location to an alternative accessible location. While the completion of a Polling Place Accessibility Waiver Form is required for each inaccessible polling place, such a form does not guarantee that inaccessible locations will be granted waivers. Waivers will be granted by the Secretary only in those instances when an inaccessi-

ble polling place and its affected facilities cannot be made accessible and alternative accessible locations are not available.

3. A Polling Place Accessibility Report shall be completed by each county board of elections. Such reports shall include:

- i. The total number of polling places within each county;
- ii. The total number of polling places that have been evaluated using the Secretary of State's "Polling Place Accessibility Checklist" and have been found to be either accessible or inaccessible; and
- iii. A listing of the reason(s) for any instance(s) of inaccessibility.

SUBCHAPTER 7. DISTRIBUTION OF STATE VOTER REGISTRATION FORMS THROUGH PUBLIC AGENCIES

Authority

N.J.S.A. 1991, c.318.

Source and Effective Date

R.1993 d.54, effective January 19, 1993.
See: 24 N.J.R. 736(a), 24 N.J.R. 1688(a),
24 N.J.R. 2531(a), 25 N.J.R. 320(a).

15:10-7.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Agency head" means the Division Director, Executive Director or administrative officer listed in N.J.S.A. 19:31-6.4f.

"Applicant" means a person applying to register as a voter.

"Employee" includes an agent of the Division of Motor Vehicles and employees of such agent, as well as the employees of other public agencies.

"Form" means the voter registration form described in N.J.S.A. 19:31-6.4.

"Office" or "public office" means the place where voter registration forms must be made available to the public pursuant to N.J.S.A. 19:31-___ (P.L.1991, c.318, section 3).

"Public agency" means any agency defined as such in N.J.S.A. 19:31-6.3a, excluding county welfare agencies and boards of social services.

“Registered voter” means a voter who is registered to vote in the State of New Jersey.

“Secretary” means the Secretary of State.

“Transmittal” includes mailing, forwarding or direct delivery of forms to the agency head, the Secretary or the county board or superintendent of elections.

15:10-7.2 Prominent display of forms at public agencies; posting of notice

(a) Each public agency shall maintain a supply of forms located prominently within public view at each of its public offices.

(b) In addition to the prominent display of forms, each public office of a public agency shall display a sign which shall be provided by the Secretary of State.

(c) During the month of January in each year, the Secretary shall inform the agency head of each public agency of the closing dates for registration for the regular municipal, primary and general elections to be held that year.

(d) Each public agency shall post a notice informing the public of the closing dates described in (c) above.

15:10-7.3 Voter registration procedure; assistance to applicants; witnessing forms

(a) Each employee of a public agency dealing with any member of the public appearing at offices of the public agency shall ask if the person is registered to vote and, if not, whether the person wishes to register. The employee shall also inform the person:

1. That forms for registration are available at that office;
2. That the employee will assist the applicant in completing the form if asked to do so; and
3. That registering or not registering to vote will not affect the availability of any benefit or service that the public agency administers.

(b) If a person wishes to register at the office of a public agency, the agency employee dealing with that person shall provide the person with a form and shall assist the person in completing the form, if asked to do so.

(c) The employee assisting an applicant shall, if asked to do so, witness the applicant's signature if the employee is a registered voter.

(d) If the employee assisting an applicant is not a registered voter, the employee shall make reasonable efforts to provide the applicant with a witness who is a registered voter and, if a witness cannot be provided readily, the employee shall inform the applicant:

1. That the form cannot be completed at the office due to the need for a proper witness for the applicant's signature;

2. That the applicant's signature must be witnessed by a registered voter; and

3. That the form can be mailed or delivered to the Secretary, the appropriate county commissioner of registration or any public agency, as defined herein, once it has been completed, signed and witnessed.

(e) The employee assisting the applicant shall, if possible:

1. Make note of any defects observed on the completed form;
2. Make the applicant aware of any such defects; and
3. Assist the applicant in correcting the defects.

(f) The employee shall inform the applicant that the form can be mailed to the Secretary or given to the employee for transmittal to the Secretary or the appropriate county commissioner of registration.

(g) The employee shall inform the applicant:

1. That the applicant is not actually registered until his or her form is reviewed and accepted by the county commissioner of registration;
2. That the county commissioner of registration will notify the applicant, by mail of the acceptance or rejection of his or her application; and
3. That questions regarding the further processing of the form should be directed to the county commissioner of registration.

(h) Detailed instructions for employees of public agencies and for applicants can be obtained from the Secretary by any public agency.

(i) In addition to the requirements of (a) through (h) above, an employee of the Division of Motor Vehicles shall ask of every applicant for the original issuance, a renewal, or a correction of a driver's license or a State identification card whether the applicant is registered to vote and, if not, whether the person wishes to register.

(j) In addition to the requirements of (a)1 and 2 and (b) through (h) above, an employee of New Jersey Transit Corporation at each major bus and rail terminal and at all staffed rail stations at which the corporation maintains operations shall provide the person with any assistance necessary in completing the form.

(k) In addition to the requirements of (a) through (h) above, an employee of the Division of Worker's Compensation shall ask of every applicant for benefits under R.S. 43:21-19 et seq. whether the applicant is registered to vote and, if not, whether the person wishes to register.

15:10-7.4 Receipt, acceptance and stamping or marking; defects

(a) When a completed, signed and witnessed form is accepted by a public agency, it shall be stamped or marked with the date of receipt by placing the stamp or mark on the right side of block No. 8 on the form. The form shall also be initialed, below the "street address" portion of block No. 8, by the employee who stamps or marks the date of receipt.

(b) Forms which appear defective or improperly completed shall be stamped or marked, initialed and transmitted as if they had been completed properly.

15:10-7.5 Transmittal of received and accepted forms

(a) Employees of public agencies shall transmit forms directly to the Secretary.

(b) Any person or agency mailing forms may send individual forms separately or batches of forms in bulk. Postage shall be provided by each public agency sending the forms.

(c) Any public agency transmitting forms in bulk shall first sort them by county of applicant's address.

(d) On the closing dates of registration for municipal, primary and general elections, and during the 10 days preceding such dates, forms shall be transmitted daily. In any event, forms must be transmitted no later than the day after the close of registration for any of the elections recited above. At other times, forms shall be transmitted not more than five days after receipt or acceptance.

15:10-7.6 Preparation, transmittal and updating of lists of offices

(a) Each public agency shall prepare and maintain a list of its public offices. The list shall include the street location and mailing address (if different) and telephone number of each office and shall indicate those locations where bilingual (English/Spanish) forms and instructions are provided to applicants.

(b) A copy of the list described in (a) above shall be mailed upon promulgation to the Secretary and shall be updated to show changes as they occur. Updates shall be mailed to the Secretary with the reports described in N.J.A.C. 15:10-7.7.

(c) Mailings to the Secretary shall be addressed to Department of State, Election Division, CN 304, Trenton, New Jersey 08625-0304.

15:10-7.7 Reports of utilization

(a) Employees and agents at each public office of a public agency shall report at least weekly to the agency head regarding utilization of voter registration services, using the format set forth in (c) below.

(b) Each agency head shall report the aggregate of such utilization to the Secretary in May and October of each year, not later than 10 days after the close of registration for the primary election and the general election, respectively.

(c) The format for reporting utilization of voter registration services shall be as follows:

Name of agency	Office location	Time period	Number of registrations
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