



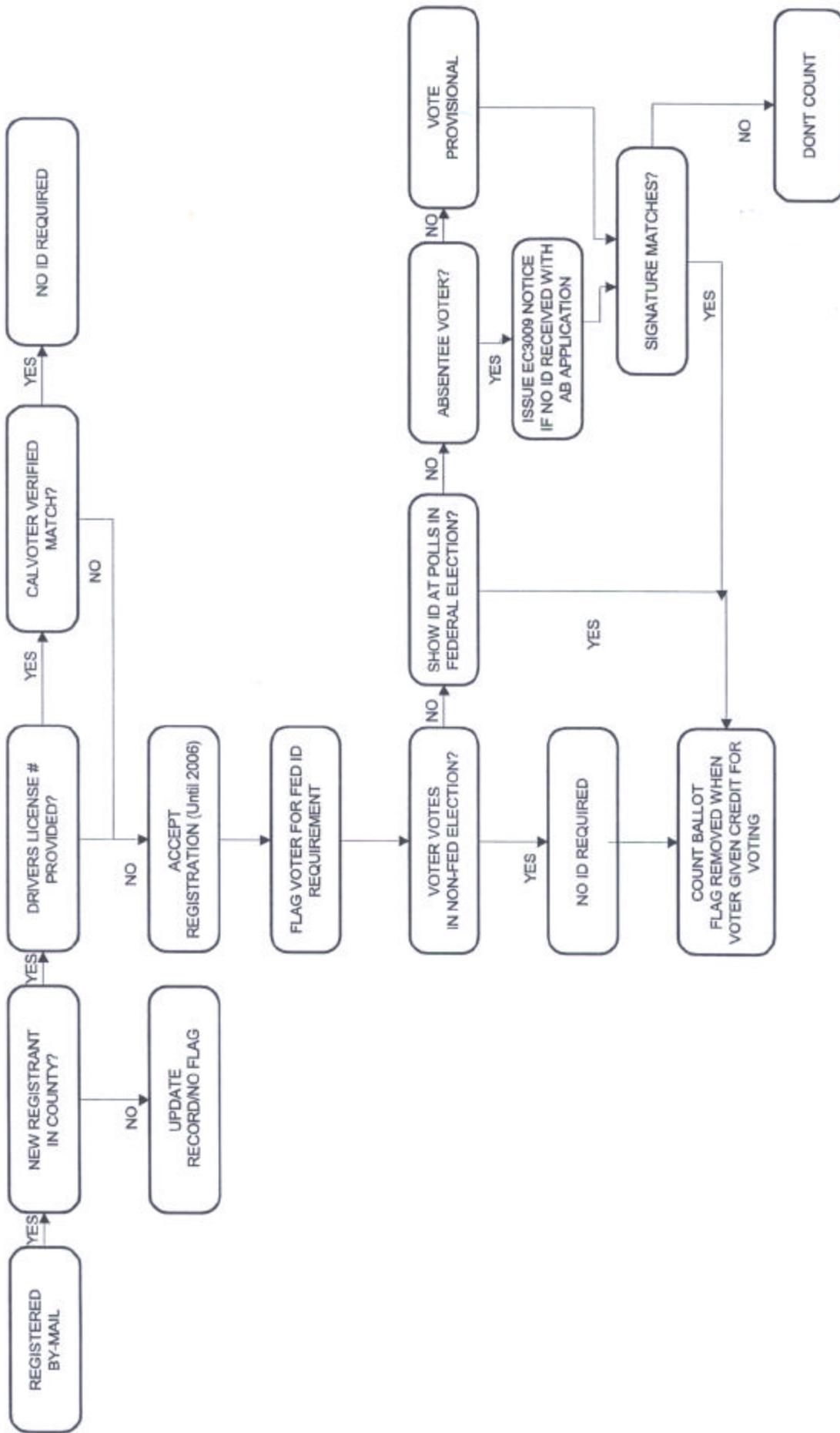
CACEO

Elections Legislative Committee

HAVA SUBCOMMITTEE

**2003-2004 HAVA
Implementation Documents**

**Stephen N. Trout
San Bernardino County
Chairman**



WHAT HAPPENS IF SOMEONE DOES NOT CHECK OFF THE BOX SAYING THEY ARE A CITIZEN, OR THAT THEY WILL BE AT LEAST 18 YEARS OLD ON ELECTION DAY?

- As long as someone signs under penalty of perjury that they are a citizen and will be 18 by Election Day we can accept the registration and count the ballot.

DO RE-REGISTRATIONS TO CHANGE ADDRESS, NAME, POLITICAL PARTY OR OTHER INFORMATION ON THE VOTER REGISTRATION CARD CONSTITUTE "REGISTRATION BY MAIL" FOR PURPOSES OF HAVA?

- These activities do not constitute a new registration in the county, but rather are updates to an existing voter registration record. As such, an update, whether received through the mail or not, is not subject to the HAVA ID requirements.

WHAT IS A "CURRENT AND VALID PHOTO IDENTIFICATION"?

- CACEO has addressed this issue and concluded that any photo ID is acceptable. This would include a health club card, Costco card, credit card, and any of the form of ID listed in HAVA.

IF A PERSON WHO IS REQUIRED TO SHOW ID VOTES BY WAY OF A PROVISIONAL BALLOT IN LIEU OF SUBMITTING ACCEPTABLE IDENTIFICATION, IS THERE ANY OBLIGATION FOR THE VOTER TO PRESENT OR SUBMIT IDENTIFICATION IN ORDER TO VOTE OR HAVE THE BALLOT COUNTED?

- The CACEO has addressed this in the HAVA flowchart. If the person is eligible to vote, the provisional should count even without the voter providing ID. HAVA tells us to follow state law which would result in counting the ballot. This is an area that should be liberally construed in favor of the voter.

IS THERE A STATEWIDE STANDARD FOR THE "FREE ACCESS" SYSTEM?

- No. Each county will implement their own "free access" system based on the specific needs of each county and its voters.



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

August 8, 2003

Ann Reed, President
California Association of Clerks and Election Officials
P.O. Box 990880
Redding, CA 96099

Dear Ann:

Thank you for your recent correspondence regarding the preparation of training materials for the March 2004 primary election. Specifically, you have requested instruction on how counties should handle provisional and absentee votes given the language from the Help America Vote Act of 2002 (HAVA).

I concur with your suggested definition of "Register by Mail" as used in HAVA Section 303(b) as any voter registration card (VRC) that contains a postmark.

Under HAVA Section 303 (b), voters who register by mail in a county on or after January 1, 2003, who have not previously voted in a federal election in that county, and who do not submit identification with their registrations or who have not had their registration identifier information (driver license number or the last four digits of their Social Security Number) verified, must provide valid identification before voting, unless one of the exceptions in Section 303(b)(3)(C) applies. However, if an individual otherwise subject to the identification requirements does not present valid identification at the polling place, or a copy of valid identification with their absentee ballot, a provisional ballot must be provided to the voter.

I also concur with your interpretation of the provisional provisions of HAVA. HAVA Section 303(b)(2)(B) provides a failsafe voting procedure for those who have not presented valid identification when voting in person, when the identification requirements otherwise apply. This failsafe procedure also applies where an absentee voter has not provided a copy of valid identification, or the election official is unable to determine whether or not the identification has been included when voting by mail. These provisions provide that such a voter who does not present valid identification may vote a provisional ballot if an elections official "determines that the individual is eligible under State law to vote," and thus, under section 302(a)(4), their ballot "shall be counted as a vote in that election in accordance with State law."

A voter's eligibility should be determined based on accordance with California Election Code Section 14310(c)(1), which provides that matching a signature on the provisional ballot envelope to the voter's signature on the VRC is the appropriate process to verify and validate a ballot. Therefore the standard for counties in determining whether to count a ballot as a vote is whether the signature on the provisional or absentee ballot matches the signature on the VRC.

August 8, 2003

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With regard to the "Free Access System" required by Section 302 of HAVA, I am sponsoring SB 613 (Perata), which addresses this issue. This measure seeks to conform state law to HAVA insofar as enabling each provisional voter to determine whether or not their vote counted. It amends California Elections Code Section 14310 to require the Secretary of State to "establish standards for a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted."

I intend to develop standards in consultation with local elections officials and interested persons. However, I believe that at a minimum the following standards should apply under HAVA and SB 613:

1. The system must not have a fee for voters who seek to access it within their county of registration.
2. The system must be available, at a minimum, during regular business hours, but should, if possible, be accessible at all hours.
3. The system must treat all provisional voters within a county equally.
4. The system may use a password or access number, but neither shall include, in whole or in part, the voter's driver license number, CA identification card number, or Social Security number.
5. The system must reveal to the voter whether the provisional vote was counted, and, if the vote was not counted, the reason the vote was not counted.
6. The system must not reveal how the voter marked his or her ballot.
7. The system must provide instructions to a voter, whose vote was not counted, on how to register to vote for the next election.
8. The system must be accessible by the handicapped and those who do not speak English fluently.
9. The system must provide written information at the polling place, to each provisional voter who voters in person on how to access this system.

I hope I have adequately addressed your concerns regarding these issues. Please feel free to contact me in the future with any other concerns you may have.

Sincerely,

KEVIN SHELLEY
Secretary of State

REGISTRAR OF VOTERS



COUNTY OF SAN BERNARDINO
ECONOMIC DEVELOPMENT AND
PUBLIC SERVICES GROUP

777 East Rialto Avenue • San Bernardino, CA 92415-0770 • (909) 387-8300
Fax (909) 387-2022

SCOTT O. KONOPASEK
Registrar of Voters

Your request for an absentee ballot was received by our office; however, additional information is required for the following reason(s):

_____ You registered to vote by mail after January 1, 2003 and have requested an absentee ballot. The federal "Help America Vote Act" (HAVA) requires all first time registrants within a county, who register to vote by mail, to provide identification in order for their ballot to be counted. Acceptable forms of identification include a copy of a current and valid photo identification, or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

_____ It did not give your residence address in San Bernardino County.

_____ The request was not personally signed by you.

Although Elections Code section 3009 allows us to issue a ballot to you based upon your insufficient application, we are not allowed to count your voted ballot unless the additional information is received on or before Election Day.

DO NOT ENCLOSE THIS FORM INSIDE THE LAVENDER ENVELOPE.

We cannot open your ballot envelope until we have received the information requested above. If it is inside the ballot envelope, your ballot will not be opened and counted.

If you need to provide us with identification according to the new HAVA requirements, please return a copy of one of the listed forms of identification in the enclosed **WHITE BUSINESS REPLY ENVELOPE**.

If you need to provide us with your signature or address, please complete the following lines and return this form to our office in the enclosed **WHITE BUSINESS REPLY ENVELOPE**.

MY RESIDENCE ADDRESS IS:

_____ *Number and Street* *City*

_____ *State* *Zip*

Signature: _____

WALLY HILL
County Administrative Officer
NORMAN A. KANOLD
Interim Assistant County Administrator

Board of Supervisors
BILL POSTMUS..... First District
PAUL BIANE Second District
DENNIS HANSBERGER..... Third District
PATTI AGUIAR..... Fourth District

PROVISIONAL ENVELOPE

REASON FOR PROVISIONAL _____

POLLING PLACE _____

PARTY _____

VOTED BALLOT ENCLOSED

(Your ballot may not be counted unless the following information is provided)

VOTER DECLARATION

WARNING: VOTING MORE THAN ONCE IN ANY ELECTION IS A FELONY

_____ am a citizen of the United States, Yes No

(Print name)
and I reside at _____, within this county.

My mailing address, if different from residence address, is _____.

- Political Party: American Independent Party Democratic Party Green Party Libertarian Party Natural Law Party
- Peace and Freedom Party Republican Party I Decline to State a Political Party Other _____

declare under penalty of perjury that I am a U.S. citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the election. I am a registered voter, and the person whose name appears on this envelope. I understand that voting twice constitutes a crime, and I have not voted previously in this election either by absentee ballot or at any other polling place.

SIGNATURE (sign as you did when you registered to vote) _____

DATE _____

DATE OF BIRTH _____

DRIVERS LICENSE # _____

| COUNT | CHANGE | REASON | BALLOT STYLE | PRECINCT | AV | WRONG PRECINCT | INITIALS |
|-------|--------|--------|--------------|----------|--------------------------|--------------------------|----------|
| | | | | | <input type="checkbox"/> | <input type="checkbox"/> | |
| | | | | | <input type="checkbox"/> | <input type="checkbox"/> | |

provisional tear off stub:

you would like to know whether or not your Provisional Ballot was counted, please call (800) 881-8683 or visit our website at www.sbcrov.com at least 28 days after the election and provide the reference # on this stub.

MISCHELLE TOWNSEND
Registrar of Voters



2724 Gateway Drive
Riverside, CA 92507-0918
(909) 486-7200 • Fax 486-7272
www.voteinfo.net

REGISTRAR OF VOTERS
County of Riverside

Instructions For Facsimile Ballots
Please Read Carefully

This is a facsimile of your Official Ballot. It is forwarded to voters temporarily residing overseas to ensure your voted ballot will be counted. Your Official Ballot will be sent to you as soon as it is available. If you do not receive your Official Ballot at least three weeks prior to this election, vote the enclosed facsimile ballot, complete the return envelope as shown below and return it as soon as possible.

On the back of the enclosed return envelope, **SIGN** your **NAME** and **PRINT YOUR LEGAL RESIDENCE** in **RIVERSIDE COUNTY**. Your vote cannot be counted unless you have completed and signed the return envelope in your own handwriting.

If you received this by electronic facsimile transmission (FAX); obtain from your Voting Assistance Officer a security envelope and ballot transmittal envelope [the Federal Write-In Absentee Ballot (SF-186)], or use two plain envelopes. Seal voted ballots in one (the security envelope), and use the other as the transmittal (return) envelope. On the front of the transmittal envelope, write as shown below:

| | | |
|--|--|-------|
| <u>Return Address</u> _____ _____ _____ | THIS ENVELOPE CONTAINS OFFICIAL FACSIMILE BALLOT AND IS TO BE OPENED <u>ONLY</u> BY THE CANVASSING BOARD | Stamp |
| | RIVERSIDE COUNTY REGISTRAR OF VOTERS 2724 GATEWAY DRIVE RIVERSIDE, CA 92507-0924 | |

On the back of the transmittal (return) envelope, **SIGN** your **NAME** and **LEGAL RESIDENCE** in **RIVERSIDE COUNTY**. Your signature must be in your own handwriting.

How to Return Your Voted Absentee Ballot Via Fax: If you feel your voted ballot will not reach our office by mail by 8:00 p.m. on Election Day (March 2, 2004), you may fax your voted ballot to the **Riverside County Registrar of Voters at (909) 486-7272**.

If you return your voted ballot via fax transmission, your vote is no longer secret upon receipt by our staff. However, as with any absentee voter, your signature will be permanently separated from your voted ballot to maintain its secrecy in the tabulation process and thereafter.

If you choose to return your voted ballot via fax transmission, you must also complete and sign the "OATH OF VOTER" on the reverse side. The Oath must be included with your ballot.

If you have any questions or need further assistance, you may contact our office at:

Riverside County Registrar of Voters
2724 Gateway Drive
Riverside, CA 92507-0923
(909) 486-7200

Or e-mail: MPonsolle@co.riverside.ca.us

OATH OF VOTER

March 2, 2004 Primary Election

I, _____, understand that by returning my voted ballot via fax
Print your full name
transmission that I have relinquished my right to a secret ballot to the elections official in
Riverside County.

NOTE: As with any absentee voter, your signature will be permanently separated from your
voted ballot to maintain its secrecy in the vote tabulation process and thereafter.

My Riverside County residence address is:

Street Address

City

Zip Code

I am a resident of Riverside County and a voter of the precinct, and I am the person whose
name appears on this declaration. I have not applied, nor intend to apply, for an absentee ballot
from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that these
declarations are, to the best of my knowledge and belief, true and correct.

Your Signature (power of attorney cannot be accepted)

Date

Email Address

Fax Number

Current Mailing Address: _____

**YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND
INCLUDE IT IN THE SAME FAX TRANSMISSION WITH YOUR BALLOT.**

MILITARY AND OVERSEAS VOTERS

| CONTACT TYPE | VOTER STATUS | FORM OF REQUEST | SCENARIO | ACTION |
|------------------|---|---------------------------|---|---|
| Registered Voter | Civilian-Overseas | FPCA Standard Form 78 | Voter submits form to elections official. | Register the voter and place the voter in the special absentee category. |
| Registered Voter | Military-Overseas | Letter | Voter submits a letter requesting an absentee ballot. | E.C.Sect.3202. Any voter may request perm av status by written request as long as it contains the information set forth in E.C. Sect. 3201. Voter is in the military and resides in Japan. The letter becomes the registration and permanent absentee request. Register the voter and place the voter in the special absentee category. |
| Registered Voter | Civilian-Overseas | Affidavit of Registration | Voter submits an affidavit of registration (no perm-av). | Assuming the voter did not check the perm av box on the affidavit, the voter does not qualify for permanent absentee status as a special absentee voter. Register the voter and send the voter a permanent absentee application to update the voter's absentee status once the request is received. |
| Registered Voter | Civilian-Within County | Letter | Voter submits a letter requesting an absentee ballot. | The voter does not qualify for special absentee status. The voter did not state that he or she was in the military nor living outside of the continental U.S., therefore, the absentee ballot request can not be processed. Send the voter an affidavit of registration and process the absentee request once the completed form has been returned. |
| Registered Voter | Military | E-Mail | Voter sends an e-mail requesting that an absentee ballot be mailed to a temporary mailing address. | To provide the utmost cooperation to military and overseas voters, the ballot should be issued. Unless the e-mailed request included the voter's scanned signature, this scenario falls within exception. The signature can be verified once the ballot is returned in accordance with E.C. Sect. 3009 (a). |
| Officer | Military-Overseas | E-Mail | The FVAP Officer sends an e-mail requesting multiple ballots on behalf of several members of a platoon deployed overseas. | Verify the names that the FVAP officer provided are registered voters. Notify the FVAP officer as soon as possible of anyone that is not registered on the list and advise the officer to submit a FVAP Standard Form 76. Issue ballots to all the registered voters and forward them to the designated mailing address. |
| Registered Voter | Military or Overseas | FPCA Standard Form 76 | Voter submits a Standard Form 76 after E-29 | Any request for registration in any form should be accepted through E-15. Any registration/absentee request received from a special absentee voter after E-15 should be processed as a registration, but a ballot should not be issued. |
| Registered Voter | Special Absentee | Fax | Voter requests that the elections official fax a ballot | The voter should be faxed a copy of the ballot with instructions that the voted ballot must be returned with a copy of the signed return envelope by mail or fax by 8pm on Election Day. |
| Registered Voter | Military or Overseas | Letter | The spouse of an overseas military person sends a letter requesting a ballot to be mailed to the spouse to a different mailing address. | Verify the residence addresses match and the spouse's signature is valid, then send the ballot to the new mailing address that the spouse provided. |
| Registered Voter | Special Absentee | Letter | Voter submits a letter stating that they have moved back to the County. | Remove the voter from the special absentee category and update the residence information. The voter should receive a regular absentee ballot. |
| Registered Voter | Special Absentee | S.O.S Duplicate List | Election official receives notice that the voter has re-registered in another county | Election official should remove the voter from the voter index. |
| Registered Voter | Special Absentee | U.S. Post Office | Elections official receives undeliverable mail from the U.S. Post Office | If the U.S. Post Office provides a forwarding address, change the address accordingly. If a forwarding address is not provided, remove the mailing address to direct all future mailings to the residence address on file. If after the address change the sample ballot booklet is returned undeliverable, the voter will be made inactive. |
| Registered Voter | Member of the armed forces of the United States or any auxiliary branch thereof | | | |
| Registered Voter | Member of the United States temporarily living outside of the territorial limits of the United States or the District of Columbia | | | |
| Registered Voter | Member of a merchant vessel documented under the laws of the United States | | | |
| Registered Voter | Member or dependent of a member of the armed forces or any auxiliary branch thereof | | | |