

CHAPTER 7

VOTER IDENTIFICATION REQUIREMENTS

The goal of this chapter is to provide guidance to county elections officials to determine when identification is required by federal law and/or state law for election-related activities.

Voter Registration – Federal ID Requirement (See also Chapter 1)

Pursuant to Section 303 of the Help America Vote Act (“HAVA”), individuals registering to vote, by any means, must provide their current and valid driver’s license number, or state identification number on the affidavit of registration, if they have such a number. If the individual does not possess a current and valid driver’s license, the individual is required to provide the last four digits of his or her social security number. If an applicant for voter registration has not been issued either a current and valid driver’s license or a social security number, the state shall assign the voter a unique number, which shall serve to identify the voter for registration purposes.

Voter Registration – State ID Requirement (See also Chapter 1)

SB 1016 (signed into law in October 2005 and effective January 1, 2006) amends California Elections Code section 2150(7) to conform California’s voter registration requirements to the requirements of HAVA. Now, under both federal law and state law, voters must provide their driver’s license number if they have a valid and current driver’s license or the number provided on a California state identification card issued by the Department of Motor Vehicles. If they do not, they are required to provide the last four digits of their social security number. If they do not have a driver’s license number, state identification number or social security number, the state will assign them a unique number, which will be their identifier for purposes of voter registration.

Voter Registration – By Mail

If a voter registers in a jurisdiction for the first time by mail, the voter must provide proof of identity prior to voting in a Federal election.

For purposes of applying this provision of HAVA, the following definitions apply:

- ◆ Registration by Mail is limited to registration affidavits that bear a United States Postal Service postmark. If the registration affidavit does not have a postmark because it was delivered by a third party, the affidavit is not a “registration by mail”;
- ◆ Federal Election means any general, special, primary or runoff election for any Federal office (President, Vice President, U.S. Senator or U.S. Representative), including presidential preference primaries. (Title 2 California Code of Regulations, Section 20108.1(j).)

Proof of Identity Required

Proof of identity may be provided prior to an election or at the polling place on Election Day. The following provide examples of when the proof of identity requirement has been satisfied:

- ◆ The applicant provided satisfactory proof of identity with the voter registration application or otherwise provided satisfactory proof of identity prior to voting in a Federal election (Title 2, California Code of Regulations, Section 20108.38(a)(i)); or
- ◆ The applicant's California driver's license or state identification number, or the last four digits of the applicant's social security number, was verified with Calvalidator or the California Department of Motor Vehicles (Title 2, California Code of Regulations, Section 20108.38(a)(ii); or
- ◆ The applicant provided satisfactory proof of identity at the polling place when he or she went to vote; or
- ◆ The applicant provided satisfactory proof of identity with his or her absentee ballot.

If the applicant has provided proof of identity pursuant to any of these provisions, the voter shall be exempt from providing further proof of identity for the purpose of voting in a Federal election. In addition, an applicant who registers by mail is not required to provide proof of identity prior to voting if:

- ◆ The applicant is registered to vote under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), or is entitled to vote other than in person under the Voting Accessibility for the Elderly and Handicapped Act, or any other Federal law (Title 2, California Code of Regulations, Section 20108.38(a)(iii); or
- ◆ The applicant has previously registered to vote in California and the elections official has determined, after researching the applicant's voting history in the county election management system and Calvoter, that the applicant has previously voted in a Federal election in the State (Title 2, California Code of Regulations, Section 20108.38(a)(iv).

If the applicant has **not** provided proof of identity in any manner suggested above, and the applicant is not otherwise exempt from the proof of identity requirement, the applicant's record shall be so indicated on the roster in a non-pejorative manner to indicate that the voter must provide proof of identity the first time the voter votes in a Federal election. An individual who registered by mail and desires to vote in person, but who has not provided or will not provide proof of identity, shall be permitted to cast a **provisional ballot**, which shall be processed in accordance with California Elections Code Section 14310. *See also Chapter 8.* An individual who registered by mail and

desires to vote by mail or absentee ballot, but who has not provided or will not provide proof of identity, shall be permitted to cast his or her ballot by mail and the ballot shall be treated as a **provisional ballot**. *See also Chapter 8.*

Satisfactory Proof of Identity

Satisfactory proof of identity means that the applicant provided either a current and valid photo identification or other document deemed, by regulation, to be satisfactory proof of identity.

Title 2, California Code of Regulations, Section 20107(d)(1) defines “photo identification” as a document prepared by a third party in the ordinary course of business that includes a photograph and name of the individual presenting it, including a:

- A. driver’s license or identification card of any state;
- B. passport;
- C. employee identification card;
- D. identification card provided by a commercial establishment;
- E. credit or debit card;
- F. military identification card;
- G. student identification card;
- H. health club identification card;
- I. insurance plan identification card.

Title 2, California Code of Regulations, Section 20107(d)(2) lists “Other Documents” that satisfy the proof of identity requirement. These other documents will be sufficient if the document includes the name and address of the individual presenting it, and is dated since the date of the last general election, unless the document is intended to be of a permanent nature such as a pardon or discharge. Other documents include a:

- A. utility bill;
- B. bank statement;
- C. government check;
- D. government paycheck;
- E. document issued by a governmental agency;
- F. sample ballot issued by a governmental agency;
- G. voter notification card issued by a governmental agency;
- H. public housing identification card issued by a governmental agency;
- I. lease or rental statement or agreement issued by a governmental agency;
- J. student identification card issued by a governmental agency;
- K. tuition statement or bill issued by a governmental agency;
- L. insurance plan card issued by a governmental agency;
- M. discharge certificate, pardon, or other official document issued to the voter in connection with the resolution of a criminal case, indictment, sentence, or other matter;

- N. public transportation authority senior citizen discount card issued by a governmental agency;
- O. identification document issued by governmental disability agencies;
- P. identification document issued by government homeless shelters and other temporary or transitional facilities;
- Q. drug prescription issued by a government doctor or other governmental health care provider;
- R. property tax statement issued by a governmental agency;
- S. vehicle registration or certificate of ownership issued by a governmental agency.

NOTE: A VOTER CAN MEET THE PROOF OF IDENTITY REQUIREMENT BY PRESENTING **EITHER** A CURRENT AND VALID PHOTO IDENTIFICATION OR OTHER ACCEPTABLE DOCUMENT, AS SET FORTH ABOVE. ALSO, THE PROOF OF IDENTITY REQUIREMENT ONLY APPLIES TO FEDERAL ELECTIONS. THEREFORE, ALL REGISTRANTS SHALL BE PERMITTED TO VOTE A REGULAR BALLOT IN ALL NON-FEDERAL ELECTIONS WITHOUT SHOWING ID.

Elections officials shall make available to voters a list of acceptable identifications in languages appropriate for their county. Any doubt as to the sufficiency of the identification presented shall be resolved in favor of permitting the person to vote a regular ballot. (Title 2, California Code of Regulations, Section 20107(b).)