

ELECTION PROTECTION **YOU HAVE THE RIGHT TO VOTE**

1-866-OUR-VOTE

FREQUENTLY ASKED QUESTIONS: NEBRASKA

A. Questions involving Access to the Ballot

1. I am: in the Central Time zone and it is after 8 a.m., OR in the Mountain Time zone and it is after 7 a.m. and the polling place is not open.

Nebraska is split between Central and Mountain time zones. In the Central Time zone, the polls open at 8 a.m. In the Mountain Time zone, the polls open at 7 a.m. If the poll is closed when it should be open, contact the Counties. You can find contact information at <http://www.nebraska.gov/counties.phtml>. Encourage the voter to request a provisional ballot. A lawyer will contact the county election officials to report the problem.

If the polling place is open on time, but the voting equipment has not arrived or there is a problem with the machines, call headquarters immediately. Voters should be permitted to vote by back-up paper ballots or provisional ballots.

2. There are equipment problems at my precinct and I cannot vote.

Encourage the voter to ask to vote by a back-up paper ballot or provisional ballot. If the poll is closed when it should be open, contact the Counties. You can find contact information at <http://www.nebraska.gov/counties.phtml>.

B. Questions Involving Where to Vote

1. I forgot to register to vote. Can I still vote? (NOTE: Re-registering after a move within the county is addressed in a later answer – See #2 below.)

Yes, but only if the caller

- moved into Nebraska from out of state, or
- moved from one Nebraska county to another,

after Nebraska's deadline to register to vote

OR

- if the caller moved from Nebraska to another state or the District of Columbia and is unable to vote in his or her new domicile.

Neb. Rev. Stat. § 32-933(1)-(2). The caller will have to fill out an affidavit, available from the office of election commissioner or county clerk, before he or she can vote in the presidential race. § 32-934. (Section 32-936 suggests that the caller can get the ballot from any county within the state, and is not limited to his or her current or former county. It is probably best to have the callers who are in-state get the ballot from their local election official, and the callers from out of state get the ballot from their former election official.)

If the caller moved into Nebraska or within Nebraska, tell the caller to go to the office of the election commissioner or county clerk to vote. The caller may vote any time between the close of registration until the closing of the polls on Election Day. The caller is limited to voting in the presidential race, but no other offices. § 32-933(3).

If the caller moved from Nebraska to another state or the District of Columbia, the caller has the option of:

- going to the office of the election commissioner or county clerk to vote, or
- mailing in the ballot to the office.

If the caller mails the ballot in, the ballot must arrive before the close of the polls to be counted. § 32-933(3).

If the caller is being denied the right to vote, contact a Commander. An attorney will contact the county election officials to report the problem.

2. I have moved from one address to another within the same county, but haven't re-registered. Where should I vote?

Note that this applies only to those callers who registered before their move, and have continuously resided in the county. If the caller moved from one address to another within the same county AND same precinct, the caller may vote a full REGULAR ballot after updating his or her address with the poll workers. Tell the caller to go to the polling place for his or her new residence. Neb. Rev. Stat. § 32-914.02

However, if the caller moved from one address to another within the same county BUT to a different precinct, the caller has to vote by PROVISIONAL ballot. Tell the caller to go to the polling place for his or her new residence. The caller will have to fill out a new voter registration form prior to voting. § 32-915.

If the caller is being denied the right to vote, contact a Commander. An attorney will contact the county election officials to report the problem.

C. Questions Involving Identification

1. I do not have any identification with me. Can I vote?

This answer assumes that the caller has not changed his or her address from that on the voter rolls. The answer to the question is yes, but the caller may have to vote a PROVISIONAL ballot instead of a REGULAR ballot. If the caller registered in the county on or before Jan. 1, 2003,

then the caller does not have to produce any ID, according to the voting procedure in the statute. Neb. Rev. Stat. § 32-914. However, if the voter registered by mail after Jan. 1, 2003, and has not previously voted in the county in a federal election, then the caller will have to produce some form of ID. A photo ID is NOT required by statute. Instead the caller may produce one of the following:

- a photographic identification which is current and valid, OR
- a copy of
 - a utility bill,
 - bank statement,
 - government check,
 - paycheck, or
 - other government document

that is current and that shows the name and address of the voter. Neb. Rev. Stat. § 32-914.

2. I am a registered voter who is not on the rolls at my precinct. Can I vote?

It depends. Check to see if the caller has moved and, if so, refer to the earlier sections of this document on the effect of a change in residence on whether the caller can vote a full ballot or whether he or she is limited to the presidential race, and whether the voter can vote by REGULAR or PROVISIONAL ballot. If the caller is not on the rolls, and has continuously resided in the county since registering to vote, but does not fall within one of the following exceptions:

- Changed name, or
- Changed address within the same county and same precinct

he or she will have to vote by PROVISIONAL ballot. The caller will have to fill out another registration form prior to voting. § 32-915.

3. Poll workers are turning away voters if they don't have photo ID.

Identification is not required by statute, except in the case when

- a voter has registered by mail after Jan. 1, 2003, and
- has not previously voted in a federal election in the county,

in which case, they are required to produce a form of ID. Even then, photo ID is not required. Instead of current and valid photo ID (government-issued is not required by statute), the caller may provide a copy of a utility bill, bank statement, government check, paycheck, or other government document that is current and that shows the name and address of the voter. Neb. Rev. Stat. § 32-914. Contact a Commander immediately to report the problem. If the voter registered on or before Jan. 1, 2003, encourage the voter to go back into the polling station and demand the right to vote by REGULAR ballot. A voter who produces the form of ID required by statute also should demand to vote by REGULAR ballot. A voter who cannot produce the form of ID required by statute will have to vote by PROVISIONAL ballot. Neb. Rev. Stat. § 32-914, 32-915.02.

D. Questions involving Assistance at the Polls:

1. I am a physically disabled voter. Will my polling place be accessible?

Nebraska law requires that polling places be fully accessible to physically disabled and elderly voters. Furthermore, if the voter cannot reach the voting booth, election officials are to direct an election judge and an election clerk of different political parties to take a ballot to a convenient location in the polling place, or to the voter's car no further than a block away from the polling place. Neb. Rev. Stat. § 32-918(1). Further, the Supreme Court in a recent decision stated that denial of the right to vote because of handicap is a violation of the due process clause of the 14th amendment to the U.S. Constitution. See Tennessee v. Lane, 541 U.S. ____, 124 S. Ct. 1978, 1989 n.13, 1990 (2004).

If a voter reports that a polling place is not handicap accessible and no election official is willing to help him or her, Contact a Commander so an attorney can get in touch with the responsible election official to report the problem immediately.

2. I am blind, physically disabled, do not understand English, or am unable to read or mark the ballot and require assistance at the polls in order to vote. Can I get assistance at the polls?

Yes. A voter requiring assistance at the polls for any the reasons above can receive the assistance of a friend or relative. The friend or relative will have to make an oath or affirmation prior to accompanying the voter to the booth. If the voter does not bring a person with him or her, election officials may direct an election judge and election clerk of different political parties to accompany the voter to the polls to instruct or assist the voter in casting his or her ballot. Neb. Rev. Stat. § 32-918.

Although the statute does not specifically address assistance for language minority voters, the statute does state that the voter can bring a friend or relative if the voter cannot read the ballot. Because a language minority voter cannot read an English ballot, the election officials should permit the voter to bring the friend or relative to provide assistance.

If a poll worker refuses to allow a disabled or language minority voter to bring a friend or relative into the voting booth, call a Commander.

3. I am elderly or physically disabled and cannot enter the polling station.

“All polling places shall be accessible to all registered voters and shall be in compliance with the federal Americans with Disabilities Act of 1990, as amended. All polling places shall be modified or relocated to architecturally barrier-free buildings to provide unobstructed access to such polling places by people with physical limitations. At least one voting booth shall be so constructed as to provide easy access for people with limitations and shall accommodate a wheelchair. The modifications required by this section may be of a temporary nature to provide such unobstructed access only on election day.” Neb. Rev. Stat. § 32-907.

If a voter reports that a polling place is not handicap accessible and no election official is willing to help him or her, call a Commander so an attorney can get in touch with the responsible

election official to report the problem immediately. As noted earlier, voters may be assisted outside the voting booth, and even in a car up to a block away from the polling place. Neb. Rev. Stat. § 32-918(1).

E. Miscellaneous Issues:

1. I have been approached by candidates or others at the polls.

No electioneering should be taking place inside the polling place, the building in which the polling place is located, and 200 feet wide from the entrance to the building where the polling place is. Neb. Rev. Stat. § 32-1524. Vote surveyors and pollsters may not work closer than 20 feet from the entrance to the building where the polling place is, or if they are in the building, they may not work any closer than 100 feet from the voting booths. Neb. Rev. Stat. § 32-1525. If anyone is electioneering in violation of these requirement, contact a Commander let them know the extent of the problem and work with them to assess if calling an election official is necessary.

2. What if I requested an absentee ballot but I want to vote in person on Election Day?

You may not vote in person at the polls on Election Day.

3. I requested an absentee ballot, but have not received it. What do I do?

You may request another absentee ballot from the office of the election commissioner or county clerk. You will have to fill out an affidavit that you did not receive the absentee ballot.

4. There are people at the polls trying to intimidate voters.

Call the Legal Command Center immediately. An attorney will be dispatched to the polling place. If the voter agrees, put him or her on hold while you call a Commander. Then, gather as much information from the voter as possible.

5. I have a felony conviction. May I vote?

First, the right to vote is lost only for those who have been *convicted* of a felony. If the caller has been convicted, the caller has the right to vote if his or her civil rights have been restored, the conviction was overturned, or it has been two years since the completion of his or her sentence (including any parole term). Neb. Rev. Stat. §32-313

6. I am a college student. Can I vote where I go to school?

There is conflicting information from the Election Administration of the Nebraska Secretary of State, and case law from Nebraska's high court. According to the Secretary of State's office, college students can register and vote where they go to school, provided they meet the state's residency requirements. They do not need to meet other requirements. §§ 32-110, 32-

116. On the other hand, in Swan v. Bowker, 281 N.W. 891, 896 (Neb. 1938), the Nebraska Supreme Court dismissed a challenge to a college student's right to vote because he was not dependent on his parents for support, he did not intend to return to his parents' home out of state, and he repeatedly returned to Nebraska for school.

If a student has been turned away at the polls, find out if he or she has fulfilled all the registration requirements (age, citizenship, residency requirements), whether he is independent (does not rely on his parents for funds), and that he or she registered on time for this election. If so, contact the Commander to contact the appropriate election official.