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Dear Municipal Clerks,

I hope this letter finds you well!

Based on the various questions the Supervisor of Elections office (SOE) received before, during, and after the Clerk workshop, we thought it would be helpful to lay out each of the municipalities' duties, as well as what the Supervisor of Elections will be responsible for, if you choose to have the Supervisor of Elections oversee your elections. Many of you will already know most of this, but for some of our newer Clerks, or those who have not had an election in a while, we hope this will serve as a helpful overview of the process.

Step 1: Qualifying

The first stage of any election is Qualifying. At this stage, prospective candidates will work to qualify for placement on the ballot by either paying the required filing fee or submitting the number of petition signatures necessary to be eligible for whichever office for which they are running. The Qualifying officer is the person or office responsible for collecting those fees or signatures.

When the office or question is specific to a municipality, that municipal government (i.e. city commission, town council, etc.) is the qualifying officer, and therefore, usually the municipal clerk has the responsibility to collect filing fees and petitions. In other words, municipalities are responsible for facilitating their elections according to the municipality's rules (charters, ordinances, etc.); this includes stand-alone elections and municipal elections that piggy-back on county-wide elections.

Municipalities are and will always be responsible for:

- Collecting petitions;
- Collecting filing fees; and
- Posting notices or advertisements required by municipal charters/ordinances not already required by statute.

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The Supervisor of Elections is responsible for:

- Verifying petition signatures (once municipalities have dropped them off to our main office), certifying the total number of valid signatures, and returning the petitions to the clerk, who will determine whether the total number of valid signatures is sufficient for the candidate to qualify; and
- Posting legal notices required by Florida Law (this is a responsibility we have agreed to in the contract).

If more than one candidate qualifies for the same race, and/or if your municipality has an issue that needs to be voted on, you must notify our office that you will have an election.

As we discussed on the call, qualifying must be complete and all ballot language must be sent to the SOE 95 days before the election. Under extenuating circumstances, we have extended a “grace period” of no later than 90 days before the election. The SOE reserves the right to not administer a municipal election if the municipality does not provide all ballot information by the 90-day deadline. For the March stand-alone Municipal Elections, the 95-day deadline is December 3, 2021.

Step 2: Polling Locations

Municipalities are ultimately responsible for securing their own polling location(s) for stand-alone municipal elections. If the municipality is having an election in conjunction with a county or state-wide election, the SOE will secure all polling locations. Under federal law, a polling location must comply with the Department of Justice (DOJ) standards (i.e., ADA accessibility, parking requirements, etc.). During a county or state-wide election, the SOE uses polling locations that meet DOJ standards. Upon request, our office will provide the municipality with the list of the polling locations that are currently assigned to your municipal precincts. Municipalities are encouraged to use the same polling locations for stand-alone municipal elections as the SOE does for county-wide elections, to avoid voter confusion and unnecessary expense. If a different location is used, a Department of Justice survey must be performed.

During a stand-alone municipal election the municipality is responsible for:

- Securing and contracting with polling location(s) and either confirming to the SOE that the same location(s) will be used or notifying the SOE of any change at least 60 days prior to the election;
- Coordinating with Voting Equipment Center manager (Hector Lugo) regarding delivery and security of voting equipment;

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- Coordinating Monday set-up and 5:30 am access on Election Day; and
- Paying for voter information cards which are **required by law** to be sent to each voter whose polling location is affected both before the election, and after the election.

The Supervisor of Elections will:

- Schedule a site visit to any previously unused polling location to ensure DOJ compliance. All costs associated with any necessary site visits will be charged to the municipality;
- Print and mail voter information cards; and
- Deliver equipment to the designated location and pick up the equipment after the election.

Step 3: Ballots

Municipal races, candidates, questions/issues must be provided to the SOE as soon as available but no later than 95 days before the election, or if arrangements have been made, no later than the 90-day grace period. Once the information is provided, the SOE will program the election. The SOE will lay out ballots, proof them, and send them to the municipalities for final approval, before sending them to the printers. In Palm Beach County, we are subject to a law that requires us to provide in Spanish everything we provide in English. That includes all legal ads and ballot language. We are also required to provide ADA accessible equipment (the ExpressVote), which also need to be programmed in English, Spanish, and Creole.

The Municipality is and will always be responsible for:

- Submitting language (names, races, question/issue wording) immediately after qualifying (but no later than the 95-day deadline);
- Proofing and approving final ballot layout and content prior to printing; and
- Paying for translations.

The Supervisor of Elections will:

- Program the Election;
- Lay out the ballot (in accordance with Florida law);
- Proofread the ballot (based on the language provided by the municipality);
- Arrange for certified translation of ballot;
- Coordinate with printer;
- Mail Vote-By-Mail ballots; and

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- Arrange for delivery of Election Day Ballots to polling locations.

Step 4: Canvassing

County Canvassing Boards, pursuant to Florida Statutes, Section 101.141(1), are “composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners.” When Municipalities hold stand-alone elections, they have the ability to determine who will act as their Canvassing Board. When they are part of a county-wide election, the Division of Elections has determined that only the County Canvassing Board can certify the election results.

Regardless of the kind of election, Florida law states that no member of the Canvassing Board may be “a candidate who has opposition in the election being canvassed, or an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed.” F.S. 101.141(1). In other words, all members of the canvassing board(s) must remain impartial at all times, whether canvassing or not. While serving on the Canvassing Board, the member must also behave in a nonpartisan manner. If a member of the canvassing board has endorsed a candidate in an election, that member may not canvass ballots for that election.

The Canvassing Board has several responsibilities, whether it is a county canvassing board or a municipal canvassing board.

- At least one member of the Canvassing Board must be present at the Logic and Accuracy Testing, though all three must certify the accuracy of the testing.
- A member of the Canvassing Board must be present at all times ballots are being processed; that is, when ballots are being opened, duplicated, and tabulated.
- A majority of the Canvassing Board must be present during Canvassing of the ballots (making determinations/voting about signature issues on vote-by-mail ballot envelopes, making determinations about voter intent, reviewing ballots which have been duplicated). If there is a tie vote, the third member of the Board must be present to break the tie.
- The Canvassing Board must be present at the Voting Equipment Center until all ballots have been collected and canvassed on Election Night.
- A majority of the Canvassing Board must certify the results of the election, though three signatures is preferable. The Supervisor and SOE staff will ascertain the results and provide them to the Canvassing Board for certification. During a stand-alone election, certification may occur after 5:00 pm on the second day after the election once all ballots have been canvassed. In conjunction with a



county-wide election, certification may occur anywhere from the 3rd to the 12th day after the election.

- At least three members must be present for a recount, if necessary.
- A majority of the Canvassing Board must be present at all times during the post-election Audit. The SOE staff will complete the Audit process.

Should your municipality wish to take advantage of a county canvassing board in your future stand-alone elections, the SOE has drafted suggested language for an ordinance which would (1) confirm the Municipal Clerk's authority to delegate duties to the SOE as necessary (such as recruiting and assigning poll workers) without any additional authorization from the Municipal government, and (2) delegate all Canvassing responsibilities to a county canvassing board:

The [CITY/TOWN/MUNICIPAL] Clerk of [MUNICIPALITY] shall be the official representative of the municipality and the [CITY/TOWN/MUNICIPAL COMMISSION/COUNCIL] in all transactions with the Supervisor of Elections of Palm Beach County, Florida, in relation to matters pertaining to the use of the registration books and records herein mentioned for holding such municipal elections.

[MUNICIPALITY] delegates all canvassing duties as defined in applicable Florida Statute¹ and Florida Administrative Code² to the County Canvassing Board appointed by the Palm Beach County Commission and the Chief Judge of the Fifteenth Judicial Circuit and will be composed of the supervisor of elections; a county court judge, who shall act as chair; and the chair of the board of county commissioners, or their respective alternates or substitutes. See §102.141, Florida Statutes (2020).

Alternatively, if your municipality chooses not to designate the SOE as the official Supervisor of your Municipal Election, as suggested in the June 2021 Charter Recommendation letter, you may want to consider listing the Supervisor of Elections as a substitute, not an alternate, in the event there is an emergency, and no canvassing board members or alternates can be present for some reason.

¹ This includes, but is not limited to, the following Sections: F.S. 102.141, F.S. 101.5612, F.S. 101.68, F.S. 101.6925, F.S. 101.048, F.S. 101.049, F.S. 102.166, F.S. 102.151, and F.S. 101.591.

² This includes, but is not limited to, the following rules: Rule 1S-027, 1S-031, 1S-2.037, and 1S-5.026.



Step 5: Recruitment, Training, and Payment of Poll Workers

The Supervisor of Elections will recruit all election workers, primarily from our existing pool of successful poll workers. The SOE will also coordinate training classes and assignments. In the event the SOE is having trouble finding poll workers to staff a particular municipality, the SOE may reach out to that Municipal Clerk for assistance. There will be no additional cost for recruitment. However, processing payroll and issuing paychecks will be the responsibility of the municipality.

Step 6: Poll Watchers

The Municipal Clerk will be responsible for collecting the Designation of Poll Watchers form and submitting it to the SOE for processing. The SOE will then use that form to make the required identification badges and call the Municipal Clerk to pick them up when they are ready. The municipality will be responsible for all costs associated with the preparation of the badges. The Municipal Clerk will make a master poll watcher list to be supplied to their poll workers on Election Day.

Step 7: Election Day

Election Day is the day people are most familiar with. Polls open at 7:00 a.m. so it is very important that poll workers set up and test their connectivity the day before (Monday) and arrive at the polling location no later than 5:30 a.m. on Election Day. We have found that most poll workers appreciate the time to get organized and to troubleshoot if necessary.

Once polls close at the end of the day, some Municipal Clerks choose to bring ballots back the VEC warehouse themselves; however, if the Municipal Clerk prefers to be at the VEC on Election Day, they may designate the polling location clerk and another poll worker (of a different political party affiliation than the clerk) to transport ballots at the end of the night.

The Canvassing Board must stay at the warehouse **until all ballots are collected and canvassed** on Election Night. Typically, this is complete between midnight and 2:00 a.m. If the County Canvassing Board is canvassing the municipal election(s), Municipal Clerks are free to leave after all ballots have been delivered and all results have been modemed from the polling location tabulators to the SOE.

Step 8: Post-Election

Voters have until 5:00 p.m. two (2) days after Election Day to cure any signature deficiencies. At that time, the Canvassing Board will vote to certify the election.

In the event there is a recount, all members of the Canvassing Board must be present throughout. The Supervisor of Elections and SOE staff will facilitate a machine recount, and a manual recount, if necessary.³

If your municipality allows for runoffs (if there is a tie, or if you have a requirement that a candidate in a 3-person race must obtain 50% of the vote to win), that will essentially be a new election and we will start the entire process over, beginning with Logic and Accuracy Testing.

Finally, some of you have asked about the laws governing Municipal Elections. Anything that is not explicitly set forth in your charters and ordinances will default to Florida Law:

100.3605 Conduct of municipal elections.—

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.

(2) The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes.

As such, the Supervisor of Elections will always conduct elections in accordance with Florida Law, and if you are unsure about what your obligations are, you can always refer to the Florida Election Code (Florida Statutes, Chapters 97-107) and the Florida Administrative Code.

³ A machine recount must be ordered (by the Canvassing Board) if the 1st set of unofficial returns (the results after the signature cure deadline) indicates that a candidate or issue was defeated or eliminated by .5 of 1% or less of the total votes cast for the office/question. If, after a machine recount, the candidate or issue was defeated by .25 of 1% or less, the Canvassing Board must order a manual, or hand recount.



Conclusion

Should your municipality opt to have the Supervisor of Elections and a County Canvassing Board administer your elections, the SOE will handle most of the responsibilities it would during a normal county-wide election, as outlined in this letter.

The municipality will be responsible for all costs associated with their elections and the municipality will still be the qualifying officer, but the municipal clerk will not be responsible for administering or canvassing the election. The municipality will still be responsible for securing polling locations.

As we have discussed, we will continue to send Smartsheet forms to you to update. Completing and submitting those to us in a timely manner will help the Supervisor of Elections to efficiently coordinate your elections. You will receive updates and reminders to complete your duties at each step along the way, and if you have questions, we will always do our best to assist in any way we can.

We appreciate your partnership and look forward to many more successful elections!

Sincerely,



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WSL/adh

Enclosures

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Polling Place Accessibility

DE Reference Guide 0014 (eff. 3/2018)

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HISTORY

- **State law required a one-time polling place accessibility survey in 2003.**
 - Supervisors of Elections required to survey each polling place for accessibility by September 1, 2003 in accordance with standards under s. [101.715](#), Florida Statutes, that would take effect on July 1, 2004. See Section 17, [Ch 2002-281](#), Laws of Florida.
 - The Department of State adopted Rule 1S-2.035 which incorporated the survey instrument for use in 2003. The rule was repealed on 11/1/2015 and the 2003 survey instrument is available upon request for historical reference only. Refer to s. [101.715](#), Florida Statutes, and the U.S. Department of Justice, Civil Rights Division, Disability Rights Section's Polling Place Accessibility Checklist in Part 3 of the ADA Checklist for Polling Places through link below under Resources for ADA Accessibility Standards.

CURRENT STATUTORY REQUIREMENT

- **Section [101.715](#), Florida Statutes, provides:**
 - All polling places must be accessible and usable by people with disabilities, as provided in this section.
 - Each polling place used for federal, state, and local elections must comply with the Florida Americans with Disabilities Accessibility Implementation Act, ss. [553.501-553.513](#), Fla. Stat., for all portions of the polling place or the structure in which it is located that voters traverse going to and from the polling place and during the voting process, regardless of the age or function of the building.
 - The selection of a polling site must ensure accessibility with respect to the following accessible elements, spaces, scope, and technical requirements: accessible route, space allowance and reach ranges, protruding objects, ground and floor surfaces, parking and passenger loading zones, curb ramps, ramps, stairs, elevators, platform lifts, doors, entrances, path of egress, controls and operating mechanisms, signage, and all other minimum requirements.
 - Standards required at each polling place, no matter the building's age or function, include:
 - For polling places that provide parking spaces for voters, one or more signed accessible parking spaces for disabled persons.
 - Signage identifying an accessible path of travel to the polling place if it differs from the primary route or entrance.
 - An unobstructed path of travel to the polling place.
 - Level, firm, stable, and slip-resistant surfaces.
 - An unobstructed area for voting.
 - Sufficient lighting along the accessible path of travel and within the polling place.

RESOURCES FOR ADA ACCESSIBILITY STANDARDS

- The [2012 Florida Accessibility Code for Building Construction](#) (Feb 2012), adopted pursuant to s. 553.503, Fla. Stat.
- The [2010 ADA Standards for Accessible Design](#) (Sep. 2010), published by the U.S. Department of Justice.
 - This is the basis for [2012 Florida Accessibility Code for Building Construction](#), above.
- Publications by the U.S. Department of Justice, Civil Rights Division, Disability Rights Section:
 - [The ADA Checklist for Polling Places](#) (June 2016) includes Polling Place Accessibility Checklist under Part 3
 - [The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities Solutions for Five Common ADA Access Problems at Polling Places](#)



Canvassing Board Membership and Activities

DE Reference Guide 0020 (Updated 09-2019) (supersedes all prior versions)

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OVERVIEW

- Canvassing board.
 - The county canvassing board is composed of three members: the supervisor of elections; a county court judge who acts as the chair, and the chair of the board of county commissioners.
 - Aside from attendance at training workshops, a board member's duties will begin as early as the pre-election testing of voting equipment scheduled within the 10 days before early voting, intensify as canvassing of vote-by-mail ballots begin which may start as early as 15 days before an election and continue through election night reporting, post-election voting system audits, and certification of election results.
- Substitute.
 - The law requires substitutes to be appointed whenever a member is unable to serve or is disqualified from serving.
 - The substitute cannot be a candidate with opposition in the election being canvassed and cannot be an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. For what constitutes active participation in the campaign or candidacy of a candidate, see Division of Elections Advisory Opinion [DE 09-07](#).
 - The process for appointing a substitute is set out in section [102.141\(1\)](#), Fla. Stat.
- Alternate.
 - Each canvassing board must have two alternates designated. The long-term service on a canvassing board can place an undue burden on a volunteer member's other professional and personal obligations. Therefore, an alternate serves as a back-up in the event a member is unable to participate in a meeting of the board.
 - The alternates are to be appointed as close in time to when the canvassing board membership is designated.
 - If not otherwise serving as one of the three members of the canvassing board, the alternate can be present, observe and communicate with the other members of the board but cannot vote in the board's decisions or determinations. The process for appointing alternates to the canvassing board is set out in section [102.141\(1\)](#), Fla. Stat.
- Duties.
 - The canvassing board is charged by law with a number of activities in the conduct of elections and ascertainment of results.
 - This reference guide focuses specifically on the membership requirement for those activities.

REQUISITE MEMBERSHIP FOR CANVASSING BOARD ACTIVITIES

- Unless otherwise specified in statute or rule, the canvassing board may act when two members of the board are present, thereby constituting a majority, as long as the two members present are in agreement as to the action to be taken. If they are not in agreement, then a majority of the board has not approved the action. See also DE Advisory Opinion [05-08](#). The chart on the following page details requisite membership attendance based on category of activity.

Activity	Number of Canvassing Board Members Required to be Present	Underlying statute(s) and/or rule for activity
Public logic & accuracy testing	<ul style="list-style-type: none"> At least one member for test All members to certify the accuracy of test 	Section 101.5612 (2), Fla. Stat.
Canvassing of vote-by-mail ballots	<ul style="list-style-type: none"> Majority to approve and order the opening of the ballots At least one member to be present at all times during opening and running of the ballots through tabulation system 	Sections 101.68 , 101.6925 , and 102.141 (2) & (8), Fla. Stat.
Determination to count or reject vote-by-mail ballots (e.g., signature mismatch)	<ul style="list-style-type: none"> Majority to determine whether to count or reject a ballot 	Sections 101.68 , 101.6925 , and 102.141 (2), Fla. Stat.
Duplication of ballot	<ul style="list-style-type: none"> Majority to be present to approve ballots to be duplicated At least one member to be present during duplication of ballots 	Sections 101.5614 (5), 101.68 , and 102.141 (8), Fla. Stat.
Canvassing of provisional ballots	<ul style="list-style-type: none"> Majority to determine whether to count or reject (which latter must be by preponderance of the evidence) 	Sections 101.048 , 101.049 , 101.6925 , and 102.141 (2), Fla. Stat.; Rule 1S-2.037 , Fla. Admin. Code
Finding that a signature on provisional ballot or vote-by-mail ballot voter certificate or cure affidavit does not match signature on record	<ul style="list-style-type: none"> Majority and beyond reasonable doubt 	Sections 101.048 and 101.68 , Fla. Stat.
Recount	<ul style="list-style-type: none"> Majority at all times during recount process All members for determination or decision to resolve a discrepancy during a recount 	Sections 102.141 and 102.166 , Fla. Stat.; Rules 1S-2.027 , and 1S-2.031 , Fla. Admin. Code
Certification of election results	<ul style="list-style-type: none"> Majority to certify results 	Section 102.151 , Fla. Stat.
Post-election certification audit of voting system	<ul style="list-style-type: none"> Majority at all times during audit process 	Section 101.591 , Fla. Stat.; Rule 1S-5.026 (4)(e), Fla. Admin. Code