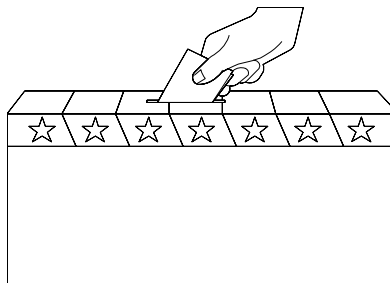


Auditor's Guide to the General Election

November 4, 2008



Prepared in the Office of the Iowa Secretary of State

2008 Edition

Notice:

Although every attempt has been made to make this an accurate and reliable guide, if there are conflicts between the *Code of Iowa* and the information contained in this guide, the *Code* and session laws shall be considered authoritative. Any changes in the *Code of Iowa* or in the *Iowa Administrative Code* since the preparation of this guide shall be followed.

References to the *Code of Iowa* are cited only by section number.

For example: 47.6.

References to the *Iowa Administrative Code* are cited as follows:

IAC 721--21.4.

"721" is the identification number for the office of the Secretary of State in the *Iowa Administrative Code*. Elections Division rules are found in chapters 20 through 26.

For Additional Help--

If you have questions or need further assistance, please contact us.

By email: sos@sos.state.ia.us

By telephone (voice or TTY): (515) 281- 0145

Table of Contents

Introduction.....	1
Planning Ahead.....	1
Voter Registration Poll Lists for Changes of Address at the Polls	3
Supplies Needed.....	10
Polling Place Accessibility Instructions.....	11
The Nomination Process.....	14
Ballot Preparation Instructions.....	22
Basic Concepts – Partisan and Nonpartisan.....	22
Judges and Constitutional Amendment.....	25
Offices and Candidates.....	26
Ballot Anatomy.....	30
Sample Ballot.....	33
Canvassing the Election.....	38
Precinct Canvass.....	40
County Canvass.....	42
Completion and Return of Abstracts.....	45
State Canvass.....	47
Appendix	Opinion of Attorney General Re: Exit Polls

Auditor's Guide to the General Election

Introduction

General Election. *The General Election is the only election held on the same date in every state. Although the state and local offices on the ballot vary from state to state, all states vote on candidates for US Representative on the first Tuesday after the first Monday in November. U.S. Senators and the President and Vice President are elected at the General Election. [Iowa Constitution, Article II, section 7. US Constitution, Article II, section 1.]*

Start with Iowa Code Chapter 49. *The basic instructions for conducting the General Election are found in Chapter 49, "Method for Conducting Elections."*

Special Elections held with the General Election. *It is possible to include public measures on the General Election ballot. However, not all elections are compatible and some public measures authorized by law have restrictions upon when those questions may be submitted to the voters. Carefully read the Code sections regarding the public measure before deciding whether it is appropriate to include that question on the General Election ballot. See also Iowa Code sections 39.2 and 47.6 regarding the timing of special elections. Remember that Wednesday, August 18th is the last day to add anything to the General Election ballot.*

For specific events and deadlines for the Primary & General Elections, see:

Election Calendar -- Auditor's Edition

<http://www.sos.state.ia.us/>

Planning Ahead

Before the candidate-filing period begins in August, plan how you will manage all of the details of the General Election. This section is a chronological list of things that you must do to prepare for the election. More detailed information is included in later sections of this Guide.

- 1. Make a Schedule.** Plan when you and your staff will begin and complete each responsibility for the General Election.
- 2. Election-Free Dates.** No elections can be held on the three Tuesdays before and after the General Election:
 - a. October 14, 21 and 28.
 - b. November 11, 18, 25.
 - c. This blackout period **does not** apply to school, city or special elections.

Auditor's Guide to the General Election

3. Notify Service Providers. Contact the people and businesses that provide services for the General Election to be sure they will be available when you need them. Such as:

- a. Temporary workers for your office.
- b. Election supplies vendors.
- c. Polling place owners, managers.
- d. Ballot printer.
- e. Voting equipment technicians, movers.
- f. Newspapers for publication of election notices.
- g. Data processing services.

4. Inventory and order election supplies.

- a. Nomination papers are available on-line:
<http://www.sos.state.ia.us/elections>
- b. Absentee ballot envelopes (for civilian voters in the U.S. See Forms 3-B, 3-C and 3-D.
- c. Absentee ballot application forms. Form 3-A.
- d. Armed Forces and Overseas voters' absentee ballot envelopes (available only from the Secretary of State) [53.47]
- e. Voter registration forms.
- f. Receipts for ballots (Form 1-K) [49.65, 50.9 & 50.10]
- g. Precinct supplies (See page 10 for list.)
- h. Canvass materials
- i. Abstract form(s) for county and township offices [50.24]
- j. Certificates of Election for county and township offices. [50.29]
- k. Open Meetings Law guides [21.10]
- l. Everything else you need

5. Polling places. For Polling Place Accessibility Standards go to IAC 721—21.50

- a. **Buildings.** Notify people responsible for polling places of date and hours of the election. Be sure to arrange for the workers to have access to the polling places at least one hour before the polls open and one hour (or more) after the polls close. [Voting machine counties, see 52.16.]
- b. **Furnishings.** Check on the availability of telephones, tables and chairs, heat, lights, restrooms and other necessities at the polling places.

6. Precinct Election Officials.

- a. Determine how many officials will be needed at each polling place. [49.12 - 49.20]
- b. Notify precinct election officials of election date, date of school of instruction and any other details. [49.124 & 49.125]
Note: Some candidates' relatives may not work at the polls.

Auditor's Guide to the General Election

7. **Ballot planning.** Begin basic ballot planning. [See also pages 22-37.]
- a. What voting equipment will be used? [49.26]
 - b. Are there any vacancies to be included on the ballot? Any county office in which a vacancy occurred before August 22, or that is held by a person who was appointed before August 22 or must be on the ballot. [69.14A]
8. **Equipment preparation.** Contact the people who will program your voting equipment, if necessary. Check to see if any additional maintenance is needed before programming.
9. **Ballot printer.** Tell the printer when you expect to deliver the ballot information and the date you want the printer to have the ballots ready. This should be soon after the candidate-filing deadline, Wednesday, August 27th.
10. **Publication.** Notify the newspaper(s) of the date you wish to have the official notice(s) published. The notice of election and notice of any changes in polling places must be published not more than 20, nor less than 4 days before the election. Find out the deadline for submission.
[See also item 22 in this checklist, and 49.23 & 49.53]

Newspaper: _____

Publication date: ___/___/___

Submission Deadline: ___/___/___

11. **Election registers.** Plan how you will print the election registers. While you plan, consider the election date and voter registration deadline. Decide whether you will need lists of all registered voters in the county in addition to the election registers. See box below:

Auditor's Guide to the General Election

Voter Registration Poll Lists for Changes of Address at the Polls

Lists of registered voters may be used at the polls on Election Day to verify whether people whose names do not appear on the election register are registered to vote in your county. The person must show approved identification. If the person is in the correct precinct and registration in the county can be verified, the person may fill out a voter registration form showing the person's current name, address and other required information. The person gives the registration form to the precinct officials and is allowed to vote in the usual manner.

The precinct officials may also telephone the commissioner's office on Election Day to verify registrations. If a heavy volume of other telephone calls is expected on Election Day, the lists may be very useful. [IAC 721--21.3 - 21.4]

- 12. Estimate turnout.** Prepare an estimate of the number of people you expect to vote. Presidential elections usually have the highest turnout. Look back at the turnout in 2004. You may want to revise this estimate later, but it is important to consider the anticipated turnout as you order ballots and supplies, hire election officials, and decide whether or not to merge precincts.
- 13. Hours.** All polling places must be open from 7 a.m. until 9 p.m. There are no exceptions. [49.73]
- 14. Precincts.** You may **not** combine precincts for the General Election unless:
- One of the precincts involved consists entirely of dormitories that are closed at the time the election is held.
 - The consolidated precincts, if established as a permanent precinct, would meet all requirements of section 49.3, and a combined total of no more than three hundred fifty voters voted in the consolidated precincts at the last preceding similar election.
 - The city council of a special charter city with a population of three thousand five hundred or less which is divided into council wards requests the commissioner to consolidate two or more precincts for any election. [49.11(3)]
- 15. Voting equipment.** Arrange for delivery of voting equipment to the polling places, if needed.
To be delivered by: _____ Date: ___/___/___
- 16. News.** Notify news media of election date, candidate filing period dates, voter

Auditor's Guide to the General Election

registration deadlines, availability of absentee ballots and other relevant information.

17. **Candidate filing.** Refer to pages 14 -20 for details about **The Nomination Process**.
18. **Preparing ballots.** See **Ballot Preparation Instructions**, pages 22 -37.
19. **Test optical scan ballots.** Test a sampling of the ballots for each precinct in this election to be sure they can be read by your voting equipment.
20. **Absentee ballots must be ready to mail** to overseas and military voters on September 25th, 40 days before the General Election. [53.8, 53.39]
21. **Prepare the voting equipment for use in the election.**
22. **Notice of public test of voting equipment.** You must publish notice of the time and place of the public test of the voting equipment and notify the county party chairpersons in writing. This is no longer required to be published with the Notice of Election. You may begin testing as soon as you have everything you need and after the notice appears. [52.9(2)]

Public Test Procedures

See Iowa Administrative Code 721—22.39, and 22.41-22.43.

23. **Public test.** All voting equipment must be tested publicly. The date, time and location of the public test must be included in the Notice of Election. Use Form 5-C in *Election Forms Book* to record the test. **Do not send** copies of these forms to the Secretary of State. Keep records of the test in your files. [52.9, 52.35, IAC 721-22.39 & 22.41-22.43]
24. **Publish notice of changes in precinct boundaries.** If the board of supervisors or a city council changed the boundaries of precincts by ordinance since the last General Election that change must be published in a newspaper of general circulation in the city or county once each week for three consecutive weeks. The last publication must appear no later than October 5, 2008 (30 days before the General Election). If the Board of Supervisors made no changes, you do not make this publication. [49.11]

Auditor's Guide to the General Election

25. **Publication.** Prepare the official notice of the election. It is wise to publish this notice early in the required period between 20 and 4 days before the election (October 18-November 3). Sometimes errors are made that require re-publication. Publish in at least two official newspapers in the county.

The notice must include the following information: [49.53]

- a. Date of the election.
- b. Hours the polls will be open.
- c. Location of each polling place.
- d. Names of the precinct(s) voting at each polling place.
- e. Changes in the usual polling places for any precinct. [49.23]
- f. **Accessibility Requirement:** Note which polling places are not accessible and include the following notice (even if all polling places are accessible):

Any voter who is physically unable to enter a polling place has the right to vote in the voter's vehicle. For further information, please contact the county auditor's office at the telephone or TTY number or E-mail address listed below.

Telephone: _____ TTY: _____ Email address: _____

[IAC 721--21.50(10)]

- g. Facsimile of the portion of the ballot showing the first rotation. This may be reduced only if the uppercase letters in candidates' names will be at least 90% of the size on the actual ballot. [49.53]
- h. Any offices or candidates not included on facsimile ballot.
- i. Proposed constitutional amendment and any public measures being voted on and the full text of the public measure if only the summary appears on the ballot.

If the public test of voting equipment has not yet been held, the date, time and place of the test may be included in the notice of election.

Be sure to specify the number of copies of the proof of publication that you will need for your records and accounting.

Date delivered: ___/___/___ Date to be published: ___/___/___

26. **Publication follow up.** Check with the newspaper to be sure that your notice was received and that it will be published on the date you requested.



Auditor's Guide to the General Election

27. **Publication follow up 2.** Always make sure that the publication appeared on the correct date, and that all the required information was included. Save a copy of the publication for your files.
Date published: ___/___/___ Page: _____
28. **Precinct election officials. October 20** (15 days before the election) is the last day to appoint precinct officials. [49.13(1)]
29. **PEO follow up.** Be sure that all precinct officials who were notified to work at this election have responded. Replace any officials who are unable to work. Arrange for several last-minute substitutes to be available.
30. **Plan delivery of supplies and precinct worker training.** Plan the school of instruction and/or arrangements for delivering election supplies to precinct officials. The new **Auditor's Guide to Training Precinct Election Officials** is coming soon.
31. **Supplies.** Prepare election supplies for each precinct. See page 10 for a list.
32. **Work assignments.** Coordinate staff assignments for Election Day. Consider who will be responsible for the following tasks:
- a. **While the polls are open:**
 - i. Voting equipment trouble calls and repair trips.
 - ii. Problem calls from precinct officials and voters.
 - iii. Voter registration questions.
 - b. **After the polls close:**
 - i. Phone calls from precincts with results. [50.11]
 - ii. Tabulation of precinct results.
 - iii. Phone calls from the news media and the public for results.
 - iv. Check in precinct supplies and ballots. [50.10]
33. **Supplies.** Distribute election supplies, including ballots and election registers. The deadline for distribution is one hour before the polls open. Use SoS Form 1-K: Ballot Record and Receipt. [49.55 & 49.65]

Auditor's Guide to the General Election

- 34. Friday –Four days before Election Day.**
- a. Last day for requests for absentee ballots that must be mailed to voters. Auditor's office shall be open until 5 p.m.
 - b. Last day to publish Notice of Election.
- 35. Saturday—Three days before Election Day.** Auditor's office shall be open for in-person absentee voting. This is the final day for Auditor's office staff to review the affidavits on incoming absentee ballot envelopes. [47.2(5), 53.18]
- 36. Monday – One day before Election Day.**
- a. **Absentee & special precinct board.** If a large number of absentee ballots have been requested, the commissioner may convene the board on the day before the election to consider the affidavits on the ballot envelopes. All absentee ballots received by the time the polls close must be counted by 10 p.m. on election night. [53.23(1) & 53.23(3)]
 - b. **Last day to test voting equipment.** [52.9, 52.35]
- 37. Election day.**
- a. The **courthouse** must be open on Election Day. [49.123]
 - b. **Exit Polls.** See Appendix, OAG 82-2-1.
 - c. **Pollwatchers.** Each political party may have a maximum of three observers in each polling place at one time. Pollwatchers must be appointed and accredited by their political parties. [49.104(2, 3 & 5)]
 - i. 1-M: Accreditation Form– Pollwatchers for Political Parties
 - ii. 1-N: Accreditation Form–Observers for Political Parties (To Witness the Counting of Ballots)
 - iii. 1-O: Letter of Appointment–Pollwatchers for Nonpartisan and Nonparty Candidates (Challenging Committees)
 - iv. **No pollwatchers for public measures** are authorized to be present at the polls for the General Election. [49.104(6)]
 - d. **Check the Post Office** for absentee ballots received late in the day. Deliver them to the special precinct board for counting before the polls close.
- 38. Canvassing votes in the precinct.** See pages 40-41.
- 39. Election night.**
- a. As election supplies are returned, use SoS Form 1-K: *Ballot Record and Receipt*. (Supplies may be returned on Wednesday morning. See item

Auditor's Guide to the General Election

- 39.) [50.10]
- b. The commissioner must remain on duty until all precincts have reported their election results by telephone. [50.11]
- c. All absentee ballots received by the time the polls close must be counted before 10:00 p.m. [53.23(1)]
- d. No results of the absentee precinct shall be released until all ballots the Code requires to be counted on Election Day have been tabulated. [53.23(6)]
- 40. Wednesday** -- the morning after Election Day. Election supplies from each precinct, including the election register, and the ballots must be returned by noon. [50.17]
- 41. Ballots.** Carefully preserve all ballots, including those not voted. The packages containing the ballots are to be preserved unopened for 22 months, unless there is a recount or a contest. [50.9, 50.12, 50.13, 50.15, & 50.19, SoS Form 5-D]
- 42. Provisional ballots.** As soon as possible, but no later than 9 a.m., Thursday, post a list of the **number** of provisional ballots cast in each precinct. Do not list the names of the persons casting the provisional ballots. During normal office hours until the special precinct board reconvenes to consider the provisional ballots, any elector may look at the list of the number of provisional ballots cast and the affidavit envelopes of provisional voters. [50.20]
- 43. Reconvene absentee and special voters precinct board** no earlier than noon on the second day after the election (Thursday) to consider provisional ballots and any absentee ballots received by mail after Election Day. [50.21, 50.22]
- 44. Absentee ballot deadline: noon Monday following the election.** Check post office for absentee ballots. If necessary, reconvene the special precinct board to count absentee ballots. The county canvass cannot adjourn until the absentee board has reviewed absentee ballots received by the deadline. [53.17]
- 45. Canvass day.** Tuesday following the election. See pages 42-44.
- a. Canvass day: Board of Supervisors canvasses from tally lists. [50.24]
- b. Tie vote for an office? Supervisors draw lots to determine the winner. [50.44]
- c. The person with the most votes wins. [50.45]
- d. Public measures are approved if more than half of the votes cast on the question are "YES" votes (unless 60% approval is required). [50.45]
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Auditor's Guide to the General Election

- e. **Reporting undervotes and overvotes.** Do not include under and overvotes on the abstracts. However, they must be included in the vote totals reported on our website. Watch for directions about this later.
46. **Abstracts—mail by November 12.** See pages 45-46 [50.24, 50.25, 50.26]
a. Prepare two copies of abstracts for state and federal offices.
b. Send only one copy of each abstract for a state or federal office to the Secretary of State.
c. Do not send copies of abstracts for county offices to the Secretary of State.
47. **Turnout report—mail by November 12.** Report the number of people who voted in the election on this form. [50.24 & 721—21.6]
48. **Certificates of Election.** Issue certificates of election to all persons elected to county and township offices at the General Election. [50.29]
49. **Open Meetings Law information.** The County Auditor is responsible for providing open meetings information to other elected officials:
- 21.10 Information to be provided.**
The authority which appoints members of governmental bodies shall provide the members with information about this chapter and chapter 22. The appropriate commissioner of elections shall provide that information to members of elected governmental bodies.
50. **\$ After the canvass, pay the precinct officials.** [49.20]
51. **Document Retention.** Tally lists are kept forever. Other documents pertaining to the General Election are kept for 22 months because candidates for federal offices were on the ballot at this election. [50.19, Form 5-D]

Auditor's Guide to the General Election

Supplies Needed

Written Instructions

Every precinct board should receive a complete set of written instructions.

Ballots & Voting Equipment

Ballots: All ballots must be wrapped and sealed. The outside of the package must be clearly marked with:

- Number of ballots
- Name of precinct
- Location of polling place[49.64, 49.65]

Ballot Record & Receipt (SoS Form 1-K)

Ballot boxes [49.25(3)]

Voting booths [49.25]

Applications for Additional Ballots (SoS Forms 1-P, 1-Q, and 1-R)

Voter Information signs:

Four copies of each are to be posted around the polling place.

Iowa Voter Information Poster

Election date, hours sign

4 Sample ballots

Voting Instructions

[49.70, 49.71 and HAVA §302(b)]

For counties with only DREs:

Voting machines (DRE): For regularly scheduled elections one machine for each 350 voters at the last similar election. [49.25(2)]

Emergency supply of paper ballots for provisional voters and voters with disabilities. [49.90; IAC 721--22.431]

Signs

Vote Here sign for polling place driveway [49.21]

Precinct Name & map for polling place door [49.21]

Voter Check-in Materials

Election register [49.28]

List of the names of persons who requested absentee ballots [49.72]

Voter's Declaration of Eligibility (SoS Form 1-A), if needed [49.77]

Voter registration forms for recording changes of address [48A.27(2)"a"3]

Statement to Person Casting a Provisional Ballot (SoS Form 1-G)[49.81(2)]

Provisional ballot envelopes (Form 1-H) [49.81(4)]

Affidavit of Voter Requesting Assistance (Form 1-I)

Election Day Registration Kit

Canvass Materials

Tally list, including Oath for Officer of Election (SoS Form 1-F) [50.16]

Envelopes for returning:

Tally lists

DOT registration problem forms

Voted provisional ballots

Voted ballots [50.12]

Unused ballots [50.9]

Spoiled ballots [50.9]

Disputed ballots [50.3, 50.4, 50.5]

Clerical Supplies

Pens & Pencils

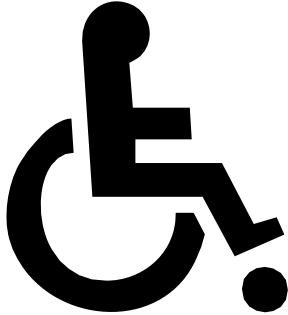
Scissors

Tape and/or thumb tacks

Other supplies, as needed

Supply box or bag to carry everything

Auditor's Guide to the General Election



Polling Place Accessibility Instructions 2008

Rules & Forms

The Administrative Rules, including the polling place accessibility survey form are in IAC 721—21.50. You can find these on the web at:

<http://www.legis.state.ia.us/Rules/Current/iac/721iac/72121/72121pp1.pdf>

The deadline to apply for a temporary waiver of accessibility for a polling place because there is no accessible place available is April 4, 2008.

Emergency Waiver applications

If you must change a polling place because of an emergency and the new polling place is not accessible, send an Application for Temporary Waiver of Accessibility Requirements to:

Office of the Secretary of State
The Elections Division
Attention: Kim Gezel
321 East Twelfth Street
Des Moines, IA 50319

By fax: (515) 281-7142
Email: sos@sos.state.ia.us

Auditor's Guide to the General Election

State of Iowa Application for Temporary Waiver of Accessibility Requirements

Instructions

Send a separate application for each precinct. Do not list more than one precinct on a waiver form. Photocopy and use the form on the next page.

NEW! **Include copies of surveys.** With each application you must send copies (you keep the originals) of the ***Polling Place Accessibility Survey*** form for the polling place you would like to use, as well as for any buildings you surveyed and rejected.

Complete section A or section B, but not both.

Section A. No Accessible Place. The deadline for these waiver applications is **April 4, 2008.**

Section B. Emergency Use. Use this section to report changes in polling places during the two months before a federal election. For example, you may need to change from an accessible polling place to an inaccessible one because the building has become unusable due to an emergency, such as a fire or flood.

1. Describe the emergency that made it necessary to move the polling place to an inaccessible site.
2. List the name and address of the polling place you propose to use. Enclose a copy of the *Polling Place Accessibility Survey Form* for this place. You keep the original survey form.

Review the application form carefully, sign and date it.

Auditor's Guide to the General Election

State of Iowa Application for

Temporary Waiver of Accessibility Requirements

County: _____ Precinct: _____

Section A -- No Accessible Place. Deadline is April 4, 2008.

I have surveyed all potential polling places in the precinct listed above and hereby certify that no accessible place is available in or for the precinct. I further certify that this county is unable to make a polling place temporarily accessible in the precinct for the following reasons:

Other potential polling places that have been surveyed and rejected as inaccessible are:

I request permission to use the following building as a polling place until an accessible place becomes available, or for two years, whichever is sooner:

Section B -- Emergency Use.

Due to emergency conditions, no accessible polling place will be available for the precinct listed above for the next election. The emergency conditions are as follows:

I request permission to use the following building as a polling place for the election to be held on ___/___/20___ [Name & address of polling place]:

Statement by Commissioner:

Copies of the surveys for all polling places examined and rejected and for the polling place that will be used are included. Any voters with disabilities who are assigned to this precinct and who are unable to enter the polling place will be provided with ballots delivered to their vehicles by the two election officials selected to assist voters. I hereby apply for a determination from the State Commissioner of Elections that an inaccessible polling place may be used in this precinct for the period requested above.

Signed: _____, County Auditor and Commissioner of Elections

Date: _____

Auditor's Guide to the General Election

The Nomination Process

More Candidates

Although most candidates seeking election to partisan offices at the General Election are nominated at the Primary Election, there are ways to put other candidates on the ballot.

Partisan county offices:

- **Political parties** (Democratic and Republican) may each nominate one candidate for any partisan office for which there is no Primary nominee. [43.77, 43.78]
- **Vacancies** in other county offices shall be filled at the General Election if they occur by August 22, 2008. (74 or more days before the General Election) [43.77(5)]
- **Nonparty political organizations** (that is, any political organization except the Democratic and Republican Parties) may nominate one candidate for each office on the ballot. [44.1, 44.17]
- **Nonpartisan candidates** (people who are nominated by petition without claiming affiliation with any political party or organization) may file for any office. There is no limit on the number of candidates who may be nominated by petition for any office. [45.1]

Nonpartisan offices: Candidates file nomination petitions for nonpartisan offices on the General Election ballot without claiming affiliation with any political party or organization. The following nonpartisan offices are filled at the General Election:

- County public hospital trustees [347.25]
- Soil and water conservation district commissioners [161A.5]
- Agricultural extension councils [176A.6]
- **NEW in 2008!** Township officers [39.22, 45.3]

Candidate Guides. Copies of *The General Election Candidate Guide* are available on the Secretary of State's website, feel free to make copies of the Guide.

Go to: <http://www.sos.state.ia.us/elections/candidates>

Auditor's Guide to the General Election

Nominations for the General Election

Forms are on the website:

<http://www.sos.state.ia.us/elections/>

Nominations By Political Parties [Democratic and Republican Parties]

Political party candidates must be nominated at the Primary Election, or by convention.

Offices	Nomination Method	Forms Required
Supervisor, Plan I or II (at large)	Convention: The county chairperson of the political party reconvenes the county convention to make nominations for offices for which there was no nomination made at the Primary Election, or to fill ballot vacancies if a candidate withdraws, dies, or is disqualified. [43.78(1)"d"]	Affidavit of candidacy for nominations by political parties. Convention nomination certificate
Treasurer, Recorder, Co. Attorney		
To Fill Vacancy: Supervisors, Auditor, Sheriff		
Supervisor, Plan III (by district)	Convention: County chair reconvenes county convention delegates from the supervisor district. [43.78(1)"e"]	Affidavit of candidacy for nominations by political parties. Convention nomination certificate

By Nonparty Political Organizations

(Any named political organization that is not the Democratic or Republican Party may nominate one candidate for each partisan office on the ballot.)

Offices	Nomination Method	Forms Required
Supervisor, Plan I, II or III	Petition. Minimum signatures needed: 1% of registered voters in the county on July 1, 2007 (Plan III Supervisor calculations are made only within the District.) [44.17, 45.1(5 & 6)] Convention. Attendance required: at least ten (10) eligible electors of the county, including one eligible elector from at least one-half of the precincts in the county. [44.1, 44.4]	By Petition: Affidavit & Petition By Convention: Affidavit & Certificate
Supervisors, Auditor, Sheriff		
To Fill Vacancy: Treasurer, Re- order, Attorney		

Auditor's Guide to the General Election

Nominations for the General Election

Nonpartisan Candidates

There is no limit to the number of nonpartisan candidates who may appear on the ballot for any office.

NOTE ► Signature calculations shall include the number of active and inactive registered voters.

Offices	Nomination Method: by Petition	Forms Required
Supervisor Auditor Sheriff <u>Vacancies in</u> Treasurer, Re- corder, Attorney	Minimum signatures needed: 1% of registered voters in the county on July 1, 2007 or 250 , whichever is less. [45.1(5)]	Affidavit Petition for General Election
Plan III Supervisor	Minimum signatures needed: 1% of registered voters in the supervisor district on July 1, 2007 [45.1(6)]	Affidavit Petition for General Election
Township officers	Affidavit only, no petition needed	Affidavit for General Election
County public hospital trustees	Minimum signatures: Not less than 50 eligible electors of the county. [44.4, 45.4, 347.25]	Affidavit and Petition for General Election
Soil and water conservation district commissioners	Minimum signatures needed: Not less than 25 eligible electors of the county. [44.4, 45.4, 161A.5]	
County agricultural extension council	Not less than 25 eligible electors of the county. [176A.8(3)]	

Auditor's Guide to the General Election

Receiving Nomination Papers for County Offices

Filing Period: Monday, August 4, 2008, through Wednesday, August 27 at 5:00 p.m.

Candidates for county and township offices file with the county auditor. Candidates for state and federal offices file nomination papers with the secretary of state.

1. No early or late filing.

Do not accept nomination papers before August 4 or after 5:00 p.m., August 27.

Postmark dates don't count. [44.4, 45.4]

Exception: Nominations by convention from political parties may be filed at any time before 5 p.m. on August 27. The Code does not specify a first day to file. [43.88, 44.4]

2. Office hours on August 27. Auditors' offices must be open until 5 p.m.

[47.2(6)]

3. Written objections required.

If nomination papers appear to meet the basic requirements, you should accept them for filing. Questions about the qualifications of candidates or the legal sufficiency of nomination papers are resolved by a formal examination following written objections. Objections must be filed with the county auditor no later than September 2. See pages 17-18 for more details. [43.24, 44.15]

4. Personal filing not required.

It is not necessary for the candidate to appear in person to file the nomination papers. Completed forms may be delivered by someone else or sent in the mail. However, you must receive the papers before 5 pm on August 27th. **Postmark dates don't count.**

Examination Guidelines

Before you accept nomination papers examine them carefully to be sure that the papers meet all requirements. [43.88, 44.3, 44.4, 45.1 -45.4]

➔ **Do not file stamp papers before examining them.**

1. An affidavit of candidacy must be filed with the petition. [43.88, 44.3, 45.8]

Reject the nomination papers if the affidavit of candidacy lacks any of the following:

- Candidate's name
- Office and district, if any.
- The candidate's signature
- The notary's signature. The candidate must sign the affidavit in the presence of a notary public or other person who can witness oaths under Iowa law. See *Iowa Code Chapter 63A for others who can witness signatures.*

Auditor's Guide to the General Election

Notarization by Auditors. County auditors are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective offices, such as witnessing signatures on affidavits of candidacy.

If the auditor is also a notary public the auditor may use the auditor's notarial seal. If the auditor is not a notary public, the auditor may only witness the signature if the auditor has the appropriate seal. This seal must include all of the following:

1. The words "Notarial Seal" and "Iowa."
2. The auditor's name
3. The title "County Auditor"

[9E.6A(2), 63A.2]

If you reject the candidate's affidavit and the candidate is not present to correct it, return the entire set of nomination papers to the person who filed them. Do not keep them if you cannot accept them for filing. The candidate may replace a rejected affidavit by filing a new one (and the necessary petition) before 5pm on August 27th. [45.5(6)]

Other important considerations:

- Vacancy candidates: If the candidate is running for an office that is on the ballot to fill a vacancy, the words "TO FILL VACANCY" must appear on the affidavit and the petition. [49.57(6)]
- The candidate's name should be printed at the top, and signed at the bottom of the affidavit. If the name is unclear, print it neatly at the top of the affidavit. No titles, parentheses, or quotation marks may be used. [49.31(6)]
- Candidates may use nicknames. There is no requirement to use full, legal names.
- **Make sure the affidavit includes information about how to pronounce the candidate's name.** You will need this information for the audio ballot. The candidate should record this information on the affidavit in the space provided.
- Affidavits of candidacy may be FAXED to the office if the original is also sent to you. However, if the original is not received by September 6, or if it is postmarked after August 27th, the candidate's nomination papers are not valid.

2. All petition pages must be fastened together. [45.5(3)]

All pages of the petition must be securely fastened together. Staples are the best method. Rubber bands, paper clips or clamps are **not** acceptable. The purpose of this is to avoid loss of any part of any nomination petition.

Auditor's Guide to the General Election

3. Petition must be properly filled out.

- Information that also appears on the affidavit should be the same on the petition. This includes candidate's name, office sought and district, if any.
- All pages must be filled out at the top. Do not count signatures on petition pages without the form at the top completed. [45.5(2)]
- Only one candidate can be nominated on each petition. (Exception: Petitions for candidates seeking election to the paired offices of President and Vice President must have the names of two candidates, one for each office.) [45.6(5)]

4. Count the number of signatures.

- Do not count lines on the petition that lack the signature, address and city of the eligible elector. [45.5(1)]
- Do not count signatures that have been crossed out.
- Do not count a signature if the address is obviously outside the county (or Plan III supervisor district) [new requirement in 2008] [45.5(3)]
- A person may sign nomination petitions for more than one candidate. [45.6(1)]
- Determine that the minimum number of signatures has been submitted.

5. **Deficiencies.** If you find deficiencies in the petition, such as missing headings on petition pages, signature lines lacking addresses and cities, or other problems, make note of them on the petition in a way that makes it impossible for the deficiency to be corrected. Additional signatures may be collected, but missing information cannot be added to existing ones. [45.5(1 and 3)]

6. **Rejected petitions.** If you reject the petition the candidate can refile the same petition with additional pages and signatures. However, the candidate may not fill in missing information that you marked during the examination of the papers.

7. **Return unacceptable nomination papers.** If the papers are not acceptable, return them to the person who filed them without file stamping them. If there is sufficient time, the candidate may collect additional signatures and file an acceptable set before the deadline.

8. **When you have determined that the papers are acceptable, file stamp** the affidavit and top page of the nomination petition or note the date and time of filing. [43.12]

9. **After you have accepted the nomination papers for filing nothing can be added to them and they cannot be returned to the candidate (or anyone else).**[44.16 &45.5(3)]

10. **Issue a receipt** for the nomination papers. A nomination petition is a unique

Auditor's Guide to the General Election

document. Provide the filer with written proof that you have received it. A photocopy of the file-stamped affidavit may be used as a receipt.

11. **Make a photocopy of each affidavit of candidacy to use for preparing and proofreading ballots.** Always refer to the candidate's affidavit. This will reduce the number of chances for errors in spelling names.

12. **File the original petition and the affidavit in a safe, but easily accessible place.**

More than One Office Prohibited

Candidates may file nomination papers for more than one office on the ballot at the General Election. **But**, the candidate must file an affidavit before 5 p.m. on August 27th (the last day to file) declaring the **one** office the candidate wants to run for. If the affidavit is not filed, the candidate's name cannot appear on the ballot for any office.

Exception: This prohibition against seeking more than one office does not apply to candidates for

- Agricultural extension council,
- Soil and water conservation district commission [39.11, 49.41]

No dual nominations

A person cannot run for an office as a candidate of more than one political party or organization. If two or more political parties or organizations nominate the same candidate for the same office, the person must designate with which party or organization the nominee wants to be listed on the ballot. This designation must be filed with the auditor for county and township offices. If the candidate does not file this designation, then print the name with the name of the political party or organization that filed the earliest nomination papers. [49.38-49.40]

Public Inspection

Nomination papers are public records and they may be examined by anyone who wants to see them. However, you should supervise persons who are examining original nomination papers. Do not permit anyone to remove or alter the nomination papers. Any person may also purchase photocopies of any nomination papers. [44.15]

Withdrawals

Withdrawal deadline: Tuesday, September 2. A candidate who decides not to run may remove his or her name from the ballot by filing a notice in writing with the county auditor before September 2nd. [44.9(2)]

Auditor's Guide to the General Election

Objections

Any person who has the right to vote for an office may file a written objection to the nomination papers of any candidate for that office. The objection may call into question:

- the legal sufficiency of the nomination papers, or
- the eligibility of the candidate. [43.24, 44.4, 47.4]

Objection deadline: Tuesday, September 2. The objection must be in writing and must be filed with the county auditor, if the nomination papers were filed with the auditor. Objections against candidates for state or federal offices are filed with the Secretary of State.

Objection Process

The *Code* provides somewhat different procedures for objections to nomination papers filed by political party candidates and nonparty political organization candidates.

Political Party Candidates	Nonparty & Nonpartisan Candidates
<p>Notice to the candidate. When an objection is filed with the auditor's office, the auditor must notify the candidate by certified mail within 72 hours. The notice must:</p> <ul style="list-style-type: none"> ▪ be sent to the address on the candidate's affidavit of candidacy ▪ state that objections have been made ▪ the nature of the objections ▪ the time and place the objections will be considered. [43.24] 	<p>Notice to the candidate. The auditor must notify the candidate forthwith. The notice must:</p> <ul style="list-style-type: none"> ▪ be sent to the address on the candidate's certificate of nomination ▪ state that objections have been made ▪ the time and place the objections will be considered. [44.5]
<p>Hearing. The chairperson of the board of supervisors appoints three elected officials to consider the objection. No one whose eligibility is in question may serve on the objection panel. A majority vote shall decide the issue. [43.24]</p>	<p>Hearing. The County auditor, treasurer and attorney consider the objections, unless the objection is to the nomination certificate of one or more of those officers. The chairperson of the board of supervisors, the sheriff and the county recorder, respectively, shall substitute for ineligible officers.</p> <p>A majority decision is final. [44.7]</p>

Open Meeting

The objection hearing is open to the public. You must publish notice of the time and place of the meeting and an agenda at least 24 hours before the time set for the meeting. [21.4]

Ballot Preparation Instructions

Basic Concepts

Partisan & Non-partisan

Partisan offices and partisan candidates.

Any office for which nominations may be made by political parties is a partisan office. All offices on the Primary Election ballot, plus the office of President/Vice President, are partisan offices. A **partisan candidate** is a person who was nominated by a political party or nonparty political organization. On the General Election ballot the name of each candidate nominated by a political party or organization for a partisan office must be followed by the name of that party or organization. **NEW:** You may abbreviate if the full name and abbreviation are listed in the straight party section of the ballot. [Chapter 43, 49.57(2)]

Partisan offices and nonpartisan candidates.

Candidates who are nominated by petition without affiliation with any political party or organization (nonpartisan candidates) may file nomination petitions for partisan offices. Their names are followed by the designation "Nominated by Petition." [49.42A]

Nonpartisan offices and candidates.

Candidates for the following offices always appear on the ballot without any reference to party affiliation:

- Township officers
- County public hospital trustees
- Soil and water conservation district commissioners
- Agricultural extension councils
- Judges standing for retention [46.21]

Political parties and organizations may not nominate candidates for nonpartisan offices.

Auditor's Guide to the General Election

Begin early

The judicial ballot certification and the certification of the text of the proposed amendment to the Iowa Constitution will be sent with the certification of candidates.

What is the certification?

The official notice of names and questions to appear on the General Election ballot. You will receive two different certifications from the Secretary of State. Use them to prepare and proofread your ballots.

- **Judicial ballot certification.** The official list of all judges standing for retention who must appear on the ballot in your county. Only judges named on the certificate can have their names on the General Election ballot. This certificate tells you the correct spelling of their names and the order in which they will appear on the ballot. [46.21]
- **Constitutional amendment certification.** The exact language that shall be used on all ballots in the state is included in this certification. Do not change it.
- **Candidate certification.** The official list of the names of all candidates for state and federal offices is called the certification or certificate. Only candidates named on the certificate can have their names on the General Election ballot for state and federal offices. This certificate tells you the correct spelling of their names. This will be sent on or before August 27. [43.73]

Coding optical scan ballots

When you code ballots to identify the appropriate precinct for the machine that will count the votes, you may not use those codes solely to identify groups of voters within the same precinct. For example, if a precinct consists of two townships, you must identify each township only if one or both of the townships still elects the township officers. If the board of supervisors appoints the township officers, all voters in the precinct will receive the same ballot. Do not code ballots to determine how the voters of part of a precinct voted. [721–22.102(7)]

Quantities of ballots.

Calculate how many ballots you need using turnout numbers from 2004.

Auditor's Guide to the General Election

Optical scan systems (printed ballots counted by machine). The number of ballots to send to each precinct is based on the number of people who voted in the General Election in 2004. For every 50 people who voted in a precinct in 2004, print 55 ballots for that precinct in 2008. Consider this formula to be the minimum requirement. You must also have an additional reserve supply of ballots and absentee ballots. [49.64 – .67]

Voting machines (votes counted by direct recording electronic, or DRE, machines). Most votes will be cast on the machines. However, you will also need printed ballots for—

1. **Absentee ballots.**
2. **Voters with disabilities.** Even though you must provide one accessible voting device in each polling place, some people may be unable to use the voting machine or to enter the polling place. You must provide printed ballots for all precincts. [49.90]
3. **Emergency supply.** If the machine cannot be used while the polls are open you must have an emergency supply of ballots available for—
 - a. Power failures and equipment malfunctions
 - b. Wrong or misprinted ballot information
 - c. Anything else that would keep voters from casting their ballots. [IAC 721 -- 22.431]

Sample ballots.

You must provide at least four sample ballots to post in each precinct. These are taken from the supply sent to the polling place. You may also make sample ballots available to the public. You may charge a reasonable copying fee. Consider how many extra ballots you may need for samples. [49.71(2)]

Absentee ballots must be ready on September 25.

Ballots must be ready to mail forty days before the General Election. In-person absentee voting may begin no earlier than forty days before the election. [53.39, 53.10, 53.11, 49.63]

Maximum cost of ballots.

The rate charged by a printer for ballots and printed supplies for voting machines shall not exceed the usual and customary rates the printer charges its regular customers. [49.56]

Auditor's Guide to the General Election

Judicial Retention and Constitutional Amendments

Inspecting the certification.

When it arrives, be sure you have the correct certification. Your county name and the judicial election district are on the certification for the judicial ballot. There will be one proposed constitutional amendment on the ballot in 2008. Email or call Elections if you have any questions:

Email: sos@sos.state.ia.us

Elections Telephone: 515-281-0145

Print the location of judges and amendment on the ballot.

You must include a description of the location of the judges on printed ballots and on voting machines. The precise wording of this notice will vary. However, the following basic format shall be used. [49.37, 49.48]

Where to find the judges and proposed amendment to the Iowa Constitution:

Judges: on the back of this ballot, in the middle of the right-hand column.

Constitutional Amendment: on the back of this ballot at the end of the right hand column.

Judicial ballots.

A sample ballot is enclosed to help you in planning your county's ballots. Remember to print voting instructions on the ballot. DRE ballots should be arranged in the same order as other ballots. [46.21, 49.92]

DO NOT ROTATE the judges' names. The certification of the names of judges standing for retention lists the names in the order in which they are to appear on the ballot. The Elections Division has already rotated the names of judges from *county to county*. This is the only office for which the names are rotated before they are sent to you, all other rotations are the responsibility of the County Commissioner. [46.21]

Optical scan ballots. If necessary, you may provide separate ballots for nonpartisan offices, judges and public measures. [49.30(1)]

Auditor's Guide to the General Election

Offices and Candidates

The candidate certification will be mailed no later than August 27th.

1. Inspecting the certificate: Check number of pages.

The first, unnumbered page of the certificate (the one with the gold seal) tells you, among other things, how many pages of candidate names you should have. Be sure you have the correct number of pages.

***Email or call the Elections Division immediately if you have questions: sos@sos.state.ia.us
515-281-0145***

2. Inspecting the certificate: Check names and districts.

Read the list of offices and candidates' names. Be sure all names and district numbers are correct.

- U. S. Representative. Each county is entirely within one congressional district. [Art. III, §37, Iowa Const.]
- Only even-numbered Iowa senate districts (2, 4, 6, etc.) are on the ballot. [42.4(8)]
- All state representative (Iowa House) districts in your county should be included.

3. Inspecting the certificate: Note sequence of offices.

Do not change the order of the offices. They are listed on the certificate in the order in which they are to appear on the ballot. [39.17, 39.21]

4. Vacancies NOT yet filled by election.

Any county or township vacancy occurring on or before August 25, 2008, or that was filled by appointment without a subsequent special election, must be filled at the General Election. Nominations for partisan offices should have been made at the primary if the vacancy happened more than 74 days before the primary election. Political party nominations for vacancies that were not on the primary election ballot are made by convention. Nonpartisan and nonparty political organization nominations are by petition, or rarely, by convention (for nonparty political organizations only). A person who was **elected** to fill a vacancy serves the balance of the unexpired term. See page 12-18 for nomination process. [43.78, 69.14A]

Auditor's Guide to the General Election

Board of Supervisors. If there was a vacancy on the board and the term does not expire until after the General Election two years from this fall, list it on the ballot with the office title: "For Board Of Supervisors, To Fill Vacancy." Put this vacancy listing on the ballot after the candidates for supervisor whose terms expire at the end of this year. [49.57(6), 69.14A(1)]

Treasurer, Recorder, County Attorney. If there has been a vacancy in one or more of these offices, list that office title with the notation "To Fill Vacancy." Put vacancy positions after the candidates for Sheriff. [49.57(6), 69.14A(2)]

5. Order of political parties and organizations.

The County Auditor decides the order in which the names of political parties and nonparty political organizations will appear on the ballot, but the political parties (Democrats & Republicans) must be first, followed by the nonparty political organizations. A list of the groups of candidates from various political parties and organizations that have filed nomination papers with the Secretary of State for the General Election ballot will be sent with the certification of candidates. **Do NOT ROTATE** the sequence of party and political organization names.

Political Parties

Nonparty Political Organizations

Nominated By Petition

List the two political parties first (Democratic and Republican, in the order you choose), followed by nonparty political organizations. Nonpartisan candidates (Nominated by Petition) will be listed after the candidates of political parties and nonparty political organizations. [49.35, 49.37, 49.42A]

6. Straight Party Voting.

You must provide for straight party voting for **ALL** political parties and nonparty political organizations with candidates for more than one office. Additional instructions will be sent with the certification. [49.37(1)]

Do NOT provide for straight party voting for candidates who were nominated by petition or for write-in candidates.

7. Ballot format. No Caterpillar offices. Do not divide the list of candidates for any office onto more than one column on a printed ballot or more than one screen or column on a DRE. If there is not enough room to include all candidates in one column, start the office at the top of the next one. **This is very important.**

Candidates' names are listed under the office titles, arranged according to the order you have chosen for the names of the parties and nonparty political organizations. The names of candidates for partisan offices are in party order, not alphabetical order.

Rotate candidates' names only for partisan offices where more than one person is to be elected. See below.

Auditor's Guide to the General Election

For example:

Sequence of political parties and organizations:

- Party 1
- Party 2
- Nonparty 1
- Nonparty 2

F For U.S. Representative, District 6

Vote for no more than one.

- Elizabeth C. Stanton Party 1
- Susan B. Anthony Party 2
- Lucretia Mott Nonparty 2
- Amelia J. Bloomer Nominated by Petition

8. Rotation.

Ballot rotation means rearranging the names of candidates so that the same candidate is not always listed first. For the purposes of ballot rotation the absentee precinct **may** be considered to be a separate precinct, or you may use the ballots prepared for use at the polling places. In either case, the absentee ballots must be tabulated and reported as a separate precinct. [IAC 721–22.102(7)]

Rotate candidates' names on the General Election ballot **only** for:

Partisan offices to which two or more persons will be elected at large. Board of supervisors is the only office where this is possible. **Do not rotate the order of political parties and organizations.**

Do not rotate the names of candidates for President and Vice President. Only one **team** of candidates will be elected. [49.31(2)]

Do not rotate names of candidates for nonpartisan offices. Supervisors draw lots to determine order at the first meeting after September 2, 2008. [49.31(3)]

9. Proofread everything.

Before approving the ballots for printing check each proof carefully. Check:

- Space for precinct official's initials.**
- Attest.**
- Where to find the judges and constitutional amendments.**
- Straight party voting.** Are all the correct parties & organizations listed in 12 point type?
- Instructions.** Are all required voting instructions printed on the ballot?
- Offices.** Are they all there?
- Vote for no more than x.** Is the number correct?
- Candidates.** Are they all there?
- Candidate's Names.** Compare with affidavit of candidacy and SoS certification. Is the type upper and lower case letters, the size uniform and at least 10 point type?

Auditor's Guide to the General Election

- ❑ **Party names.** Political party and organization names must appear after the names of all partisan candidates in at least 6 point type.
 - ❑ **Write-in lines.** Is the correct number of write-in lines printed for each office? For example, if you can “Vote for no more than two,” are there two write-in lines?
 - ❑ **Rotation.** Is it right? Check every precinct. This only applies to at-large county supervisors if you can vote for 2 or more candidates. DO NOT rotate nonpartisan offices or judges.
 - ❑ **Precincts.** Be sure the ballot for each precinct includes all necessary offices and candidates.
 - ❑ **Township ballots.** Do you have the correct ballot for each township?
 - ❑ **Turn the ballot over.** Must be on each side of two-sided ballots in 24-point type.
 - ❑ **Everything else that can possibly go wrong.**
 - ❑ ***Proof at least twice; print once.***
10. **Inspection of ballots.** Iowa law permits candidates and their agents to inspect the ballots after they are printed. If anyone finds mistakes, the errors must be corrected. However, you may wish to make the proofs available before the ballots are printed. [49.63]

Auditor's Guide to the General Election

Ballot anatomy

On the sample ballot the numbers in brackets [1] are for reference only. They refer to the explanations below. Do not print these numbers on the ballot.

Explanation of Notes

1. **Precinct official's initials.** An election official must endorse each ballot, including absentee ballots. Print a space for this endorsement on the ballot where an official can see the initials without viewing the voter's marks.

[IAC 721–22.102(5), 49.50, 49.82]

2. **Attest.** At the top of the ballot include the following information in a place where an official can see the attest without viewing the voter's marks.

- The words: "Official Ballot".
- Date of the election.
- A facsimile of the auditor's signature.
- Identification number or other indication of the ballot style.

[IAC 721–22.102(2) 49.57(5)]

3. **Extras.** This information is **NOT REQUIRED** to be printed on the ballot. You may include it if you want to.

- Name of election (General Election).
- Name or number of the precinct.
- County and state name. Although this is not required it is strongly encouraged.

4. **Where to find the judges.** This notice is required to appear on all ballots and voting machines. (*For more information about this, see page 25.*)

5. **Headings and lines.** Print lines on the ballot to separate the following sections:

- Partisan Offices
- Nonpartisan Offices
- Judges
- Public Measures

[49.37(1), 49.42A]

Include headings for:

- Partisan Offices

Auditor's Guide to the General Election

- Straight Party Voting
- Other Political Organizations
- Federal Offices
- State Offices
- County Offices
- Nonpartisan Offices
- Judicial Ballot
- Constitutional Amendment And Public Measures, if any

6. **Straight party voting.** Political party and nonparty political organization names must be printed in 12-point type, using both upper and lower-case letters. If you add an abbreviation after the full party or organization name you may use the abbreviation after candidate's names on the ballot. (*For more information see page 27.*) [49.57(2)]

7. **Print the instructions for marking the ballot on the ballot.** Print instructions on the ballot showing the correct way to mark the ballot. Include instructions for voting on public measures and candidates.

Instructions for voters. The following instructions shall be printed on ballots:

Voting mark. To vote, fill in the oval next to your choice.

-  Candidate Name
-  Candidate Name

Straight party voting. To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions.

For Public measures:

Notice to voters. To vote to approve any question on this ballot, fill in the oval in front of the word "Yes". To vote against a question, fill in the oval in front of the word [46.21, 49.92 & 49.47, IAC721–22.221]

Coming! Voting Instructions will be sent later!

8. **Vote for no more than x.** Under each office title indicate the maximum number of candidates to be voted for. [49.31(4) & 49.42A]

9. **Candidates' Names** must be printed in: [49.57(3)]

- Upper and lower case letters (new in 2008)
- At least 10-point type. **This is ten point type.**
- The name of the political party or organization must be printed after each

Auditor's Guide to the General Election

candidate's name in at least 6 point type. This is six point type.

- Use the Secretary of State's certification to determine the correct spelling of the names of candidates for state and federal offices.
- Use the candidates' affidavits (even the ones nominated in the Primary) to determine the correct spelling of the names of candidates for county and township offices. Look in the space marked "Name (exactly as you want it to appear on the ballot)."
- Use the same size type for every candidate's name on the ballot. [49.57(3)]
- Do not print parentheses, quotation marks, or titles in any name on the ballot. [49.31(6)]

A person whose name includes Sr., Jr., III or some other indication that more than one person in the family has the same name, may include that suffix on the ballot. This is not a title; it is part of the name. For example, Thurston Howell III.

Candidates **may** use nicknames. For example: Bill, instead of William; Suzy, instead of Susan. A candidate may **not** add a nickname in parentheses or quotation marks, such as, William S. "Billy" Bonney. However, **without** punctuation this is acceptable: William S. Billy Bonney.

10. Write-in vote, if any. Include as many write-in positions as there are seats to be filled. If you can vote for no more than two candidates, there must be two write-in positions. [49.31(5)]

11. President and Vice President. These two candidates are elected as a team. Use one voting target for each pair of candidates. Label each of the write-in lines as shown. This is the only office on the ballot where you must include the names of the candidates' home states after their names. [49.33, 49.42A]

12. "Turn the ballot over." This must appear on the front and back of each ballot printed on both sides. Use 24-point type. [IAC 721-22.102(1)]

13. Rotation. Partisan offices. If there is more than one person to be elected to the office of at-large supervisor, you must rotate the candidates' names within the political party grouping. In this example, only Political Party 1 has more than one candidate, so only those two names will be rotated from precinct to precinct. Do not rotate the order of the political parties and organizations for partisan offices. (*For more information see page 29.*)

Nonpartisan offices. Candidates' names are NOT rotated! [49.31]

The board of supervisors determines the order of the names of nonpartisan by lot. They draw lots on Thursday, August 28.

Auditor's Guide to the General Election

14. **Judicial ballot.** Please refer to the judicial certification for the correct names of judges. Do not rely upon this sample ballot. Do not rotate the names of judges. (*For more information see page 25.*)

15. Constitutional amendment. Use the language provided by the Secretary of State for the summary and the full text of the question. Do not change anything.

16. **Public measures, if any.** If you have public measures on the ballot, use a different letter for each public measure. Center the letter just above the question "Shall the following public measure be adopted?" Use 12-point type for the letters and numbers identifying amendments and public measures.[49.45, IAC 721-- 21.200(1 & 2)]

Auditor's Guide to the General Election

Sample ballot

Print all of the candidates and the write-in lines for each office in a single column. DO NOT split any office into more than one column.

On the following pages is a sample ballot. This sample can be used as a model for all optical scan ballots and the arrangement of direct recording electronic voting machines.

This sample ballot covers four pages. You probably will not need so many pages. However, if it is necessary for you to print your ballots on more than one sheet of paper, include the following items on every ballot paper:

- ★ Precinct official's initials
- ★ Attest

Refer to the ***Code of Iowa*** and the ***Iowa Administrative Code*** for specific legal requirements.

Iowa Code sections appear in brackets along the right-hand margin.

Iowa Administrative rule citations look like this: [721—21.200]

This guide is a clarification of those laws and rules. If there are errors in this guide (and we hope there aren't) the *Code of Iowa* and the *Iowa Administrative Code* are the final authorities.

Auditor's Guide to the General Election

[1] Precinct Official's Initials _____

[2] Official Ballot

[3] General Election

[2] November 4, 2008

[3] Precinct 1, County of Sample, State of Iowa

[2] *Linn Adams*

[3] County Auditor & Commissioner of Elections

[2] Ballot style 1

[4] Where to find the judges and proposed amendment to the Iowa Constitution:

Judges: on the back of this ballot, in the middle of the right-hand column.

Constitutional Amendment: on the back of this ballot at the end of the right hand column.

[5] _____

[5] Partisan Offices

[6] Straight Party Voting

[7] **Straight party voting.** To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions.

- Political Party Name 1 (Party 1)
- Political Party Name 2 (Party 2)
- Political Organization Name (NPPO 1)
- Political Organization Name (NPPO 2)
- Political Organization Name (NPPO 3)

Other Political Organizations

The following organizations have nominated candidates for only one office:

- Political Organization Name (NPPO 4)
- Political Organization Name (NPPO 5)
- Political Organization Name (NPPO 6)

[12] Turn the ballot over

[7] **Voting mark.** To vote, fill in the oval next to your choice.

- Candidate Name
- Candidate Name

[5] Federal Offices

[11] For President and Vice President

Vote for no more than one team.

- Candidate Name, of state
Candidate Name, of state
(Party 1)
- Candidate Name, of state
Candidate Name, of state
(Party 2)
- Candidate Name, of state
Candidate Name, of state
(NPPO 1)
- Candidate Name, of state
Candidate Name, of state
(NPPO 2)
- Candidate Name, of state
Candidate Name, of state
(NPPO 3)

- _____
(Write-in vote for President, if any)
- _____
(Write-in vote for Vice President, if any)

For U.S. Senator

[8] Vote for no more than one.

- Candidate Name (Party 1) [9]
- Candidate Name (Party 2)
- _____ [10]
(Write-in vote, if any)

For U.S. Representative, First District

Vote for no more than one.

- Candidate Name (Party 1)
- Candidate Name (Party 2)
- _____ [5]
(Write-in vote, if any)

Auditor's Guide to the General Election

[5] State Offices

For State Senator, District 2

Vote for no more than one.

- Candidate Name (Party 1)
- Candidate Name (Party 2)
- Candidate Name (NPPO 2)
- Candidate Name (NPPO 6)
- Candidate Name Nominated by Petition
- _____
(Write-in vote, if any)

For State Representative, District 1

Vote for no more than one.

- Candidate Name (Party 1)
- Candidate Name (Party 2)
- Candidate Name (NPPO 3)
- Candidate Name (NPPO 5)
- Candidate Name Nominated by Petition
- _____
(Write-in vote, if any)

[5] County Offices

For Board of Supervisors

Vote for no more than two.

- Candidate B (Party 1) [13]
- Candidate A (Party 1)
- Candidate D (Party 2)
- Candidate C (Party 2)
- Candidate Name (NPPO 1)
- Candidate Name (NPPO 3)
- Candidate Name Nominated by Petition
- _____
(Write-in vote, if any)
- _____
(Write-in vote, if any)

[12]

Turn the ballot over

For County Auditor

Vote for no more than one.

- Candidate Name (Party 1)
- Candidate Name (Party 2)
- Candidate Name (NPPO 1)
- _____
(Write-in vote, if any)

For County Sheriff

Vote for no more than one.

- Candidate Name (Party 1)
 - Candidate Name (Party 2)
 - Candidate Name (NPPO 4)
 - _____
(Write-in vote, if any)
-

[5] Nonpartisan Offices

For Township Trustee

Vote for no more than one.

- Candidate Name
- Candidate Name
- _____
(Write-in vote, if any)

For Township Clerk

Vote for no more than one.

- Candidate Name
- Candidate Name
- _____
(Write-in vote, if any)

For County Public Hospital Trustee

Vote for no more than two.

- Candidate Name
- Candidate Name
- _____
(Write-in vote, if any)
- _____
(Write-in vote, if any)

Auditor's Guide to the General Election

For Soil & Water Conservation District Commissioner

Vote for no more than two.

Candidate Name

Candidate Name

(Write-in vote, if any)

(Write-in vote, if any)

For County Agricultural Extension Council

Vote for no more than two.

Candidate Name

Candidate Name

(Write-in vote, if any)

(Write-in vote, if any)

[5]

[5] [14] Judicial Ballot

[7] **Notice to voters.** Vote on all names by filling in the appropriate oval in front of each name.

Supreme Court

Shall the following judges of the Supreme Court be retained in office?

Brent Appel

YES

NO

Mark S. Cady

YES

NO

Daryl Lynn Hecht

YES

NO

Turn the ballot over

COURT OF APPEALS

Shall the following judges of the Court of Appeals be retained in office?

David L. Baker

YES

NO

Larry J. Eisenhauer

YES

NO

Terry L. Huitink

YES

NO

Rosemary Shaw Sackett

YES

NO

District Court

Shall the following judges of the District Court be retained in office?

Candidate Name

YES

NO

Candidate Name

YES

NO

Shall the following associate judges of the District Court be retained in office?

Candidate Name

YES

NO

Candidate Name

YES

NO

Shall the following associate juvenile judge of the District Court be retained in office?

Candidate Name

YES

NO

Auditor's Guide to the General Election

[5] [15] **Public Measures**

Notice to voters: For an affirmative vote upon any question submitted upon this ballot fill in the oval in front of the word "YES." For a negative vote fill in the oval in front of the word "NO."

1

Shall the following amendment to the Constitution be adopted?

YES
 NO

[Summary will be provided later]

Section 5 of Article II of the Constitution of the State of Iowa is repealed and the following adopted in lieu thereof:

DISQUALIFIED PERSONS. SEC. 5. A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.

A

Shall the following public measure be adopted?

YES
 NO

[Summary: *If you have prepared a summary of the question, put it here.*]

[After the summary print the full text of question, if it will fit, or post the full text in each voting booth with the sample ballots posted in the polling place. Be sure you provide the full text to all absentee voters.]

[12]

Turn the ballot over

Auditor's Guide to the General Election

Canvassing the Election: Introduction

Canvass of votes defined. This is the official process of counting ballots, tabulating votes and determining the outcome of an election.

All canvasses are public. Restrictions about the presence of observers at polling places end when the polls close. Anyone may watch as the precinct election officials count the ballots, tabulate write-in votes, and record the results from the precinct. However, observers may not handle ballots, participate in the count or interfere. County and state canvass proceedings are also open to the public. [50.1A(1), 50.45]

Exceptions. Observers may be present while ballots are counted during the time the polls are open. For example, the absentee and special voters' precinct board begins counting absentee ballots before the polls close. However, the number of observers is limited and the progress of the count is kept secret until the polls are closed.[50.20, 51.11, 51.12]

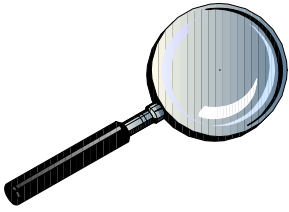
Three canvasses. There are three canvasses for the General Election. At the first one, on election night, the precinct election officials count all votes cast, including write-in votes. The second canvass is held the week after the General Election. The board of supervisors reviews the materials prepared by the precinct election officials, declares the winners of county and township offices, and sends abstracts of votes cast for state and federal offices to the secretary of state. The state canvass reviews the abstracts prepared by the county boards of supervisors and declares the winners of state and federal offices.

1. Precinct. Precinct election officials or counting center officials count ballots and write-in votes and record results in Tally List. All ballots are sealed after the precinct or central count canvass. Precinct canvassers do not declare winners.

2. County. Board of Supervisors reviews tally lists and prepares abstracts of votes and certificates of election. Abstracts for state and federal offices are sent to the Secretary of State. [50.24 -- 50.33]

3. State. The State Board of Canvassers reviews county abstracts and declares winners of state and federal offices. [50.34 -- 50.43]

Auditor's Guide to the General Election



1. Precinct Canvass of Votes

After the polls close. Immediately after the polls close, without adjournment, the precinct election officials begin the process of publicly counting ballots. They must continue until they are finished.

[50.1A]

Counting ballots. All votes cast at precinct polling places must be tallied on election night, including write-in votes. The absentee and special voters' precinct board will count some ballots after election night. Ballots cast at the polls (including those cast on direct recording electronic voting machines) are counted **only** at the polling place. Only precinct election officials count votes, not the Board of Supervisors or the auditor or the auditor's staff.

How to count votes

Iowa Administrative Code 721-- Chapter 26, "Counting Votes" provides detailed rules for counting votes. Examples are included.

Ballot Counting Laws

Review the Code sections listed below:

Marking Ballots

- 39A.4(1)"a"(6) Prohibits: Marking, or causing in any manner to be marked, on any ballot, any character for the purpose of identifying such ballot.
- 49.82 Voter to receive one ballot — endorsement.
- 49.92 Voting mark.
- 49.93 Number of votes for each office.
- 49.94 How to mark a straight ticket.
- 49.95 Voting part of ticket only.
- 49.96 Offices with more than one person to be elected.
- 49.97 How to mark a mixed ticket.

Counting Ballots

- 49.98 Counting ballots.
- 49.99 Writing name on ballot.
- 52.16 Duties of election officers — independent ballots. [unnumbered para. 3]
- 49.100 Spoiled ballots.
- 49.101 Defective ballot does not nullify vote.
- 49.102 Defective ballots.
- 49.103 Wrong ballots.
- 50.3 Double or defective ballots.
- 50.4 Ballots objected to.
- 50.5 Disputed ballots returned separately.

Auditor's Guide to the General Election

The Tally List

Tally list. Precinct results are entered in the tally list. This must include the number of people who voted, the name of each person who received votes, the number of votes each person received, and the total number of votes for each office. [50.16]

Write-in votes. The names of all people who received write-in votes must be included. It is the duty of the precinct canvassers to examine the write-in votes and to decide whether similar versions of a name should be counted for the same person. For guidance in counting write-in votes, refer to IAC 721—Chapter 26. [50.16]

Turnout. The officials must report the number of persons who voted at the polls. The report from the precinct officials at the polls shall not include any voters who cast absentee or provisional ballots. Absentee and provisional voters are reported with the absentee and special voters precinct, if their ballots are counted. [50.24, 721—21.6]

Signatures. The precinct officials must sign the Tally List. [50.16]

Ballots sealed. After the precinct canvass the precinct officials seal the ballots. This includes ballot image records of direct recording electronic systems and any other similar methods of recording the votes cast by each voter. The packages shall not be opened unless there is a recount or an election contest requiring an examination or recount of the ballots. [50.12, 52.23]

Auditor's Guide to the General Election

2. County Canvass of Votes

The county canvass of votes is the process of adding together the results from the precincts and declaring the winners of county and township offices and questions.



Before the canvass

Preparing for the canvass by the Board of Supervisors.

- Prepare abstract forms with names of candidates. (You can do this before the election.)
- Store sealed ballots in a safe, secure place. You won't need these again unless there is a recount or contest that requires an examination of the ballots.
- Verify the receipt of all tally lists.
- Send a messenger for any missing tally lists. [50.12, 50.23]

Open meetings law does not apply. Because no decisions are made at the county canvass of votes, it is not necessary to publish and post the agenda before the meeting. However, the meeting must be open to the public and minutes must be kept. [OAG #90-2-6(L)]

Date and time of meeting. The county canvass of votes for the General Election will be held on Monday, November 10. Veteran's Day holiday (November 11 falls on Tuesday. This is a state holiday.) **No time is set for the canvass to convene, but the canvass cannot conclude until the absentee and special precinct board submits its results.** Because absentee ballots may be received until noon on November 10, the tally list from the absentee precinct may be the last to be completed. It may be necessary to reconvene the absentee and special voters precinct board to examine absentee ballots received at the last minute. [50.22, 50.24]

During the canvass

Duties. The county Board of Supervisors is responsible for combining the votes from each precinct and for determining who has been elected to county and township offices. The Board of Supervisors also canvasses the votes for state and federal offices. The Elections Division of the Secretary of State's office provides the abstracts for these offices. Instructions for the completion and return of abstracts begin on page 45.

[50.24 – 50.27]

Auditor's Guide to the General Election

The Board does not count ballots. The Board of Supervisors uses the results reported by the precinct election officials in the tally lists to compile the vote totals for the county. The Supervisors have no authority to examine any ballots or write-in documents, other than the Tally Lists from each precinct. [50.22, 50.24]

Board declares winners. For county and township offices the Board declares the winners. This declaration is included in the county abstract of votes. [50.27]

Who wins? In the General Election the candidate with the most votes wins. There is no minimum number of votes required. A person elected by write-in votes must receive a certificate of election, just as other winners do. Candidates **elected** by write-in votes do not need to file any forms or documents. [50.45]

Scattering. The votes for any write-in candidates who each received less than two percent of the votes cast for an office shall be reported collectively as "Scattering". List the names of candidates who receive more than 2% of the votes after the names of candidates whose names were printed on the ballot. [50.24]

Tie votes. The supervisors draw lots to settle a tie vote. [50.44]

Public measures. For most public measures a majority vote is required for the question to pass. Only the yes and no votes are considered in determining whether the question is approved. If there are more "yes" votes than there are "no" votes, the question passes. A tie means the question fails. Do not draw lots for ties on public measure votes. [50.45]

Bond issues and other questions requiring 60%. In your calculations include only the yes and no votes. Do not include under or over-votes in the calculations. To determine if a question requiring 60% approval passes:

1. Add together the number of yes and no votes.
YES _____
+NO _____
TOTAL _____
2. Multiply the sum by .6.
X .6

3. If your answer includes a fraction, round up to the next whole number.
Votes needed to pass = _____

4. If the number of yes votes is equal to or greater than the answer to part 3, the question passes. If the number of yes votes is less than the answer to part 3, the question does not pass.

Auditor's Guide to the General Election

Abstracts. On the abstracts report only the votes counted for each candidate and question. Do not report under-votes or over-votes. The number of votes cast for an office is the total found by adding together the votes for all of the candidates, including write-in candidates.

IVoters. Election results for state and federal offices should be entered in I-Voters.

Recount. Losing candidates or groups of people concerned about the vote count for a public measure may request that the ballots be recounted. The auditor may request an administrative recount if there are doubts about the performance of the voting equipment. The sealed ballot packages may be opened and the ballots may be examined only if there is a formal request for a recount. [50.48, 50.49, 50.50]

The Recount Guide is on the website at:

<http://www.sos.state.ia.us/elections/Auditors/AuditorGuides.html>

Auditor's Guide to the General Election

Completion and Return of Abstracts

Preparing the Abstracts

1. **PLEASE NOTE!** The abstracts are the official permanent record of this election. Therefore:
 - a. Use the forms provided. Do not send photocopies.
 - b. Be as neat as possible.
 - c. Be accurate.
2. **Start early.** Type the district numbers and names of the candidates on both copies of the appropriate abstracts. You may do this before the canvass so that your forms are ready when you need them.

County canvass. The county canvass of votes must be held on Monday, November 10 or Tuesday, November 11, 2008. **NOTE:** November 11 is Veteran's Day, a holiday. Absentee ballots may be received until noon on Monday, November 10. [50.24]

3. **Check the totals.** Before preparing the abstracts, make sure all totals are correct.

|Voters????

4. **Votes in words and numerals.** Indicate the number of votes cast for each office and for each candidate in both words and numerals. Put the numerals in parentheses.

For example: CHRIS CANDIDATE seven hundred seventy-seven (777) [50.24]

5. **Use zeroes.** If no votes were cast for an office or candidate on the ballot please put the number of votes cast as "zero (0)" on the abstract.

PLEASE NOTE: *If you leave the vote totals blank we will call to ask for the correct information.*

6. **Blank ballots don't count.** On the abstracts, do not report the number of overvotes or undervotes. Do not add the number of blank ballots to the number of votes cast. A blank ballot is not a vote.

You will report under and over votes when you enter your results into our computerized system. (Watch for instructions later.)

7. **Write-ins.** Report all write-in votes cast for each office in both words and numerals.

Auditor's Guide to the General Election

Votes for write-in candidates who each receive less than 2% of the total number of votes cast for the office may be reported collectively as "SCATTERING." [50.24]

8. Check your math!

Double-check the abstract to be sure that all figures are correct. For each candidate and office check to be sure that:

- a. The vote totals written in words represent the same number as the totals reported in numerals.
- b. The number of votes cast for all candidates for each office adds up to the number you have reported as the total number of votes cast for the office.
- c. Do not include under- or overvotes.

9. **Signatures.** A majority of the members of the Board of Supervisors and the auditor must sign both copies of each abstract.

10. **Official seal.** Put the county seal on each abstract.

11. **Keep a copy of each abstract for your files.** Send only one copy of abstracts for state and federal offices. If you return both copies, we will throw away the second copy. Do not send copies of abstracts for county offices.

12. **Turnout Report.** Report the total number of people who voted in the General Election. This report shall provide a single number that includes the number of persons:

- a. Who voted at the polls on election day,
- b. Whose absentee ballots were accepted for counting, and
- c. Whose provisional ballots were accepted for counting.

Keep a copy for your files.

[50.24, IAC 721—21.]

13. **No staples or paper clips.** Please do not staple or clip state and federal abstracts together. You may fold them once so they will fit in the envelope.

14. **Send by November 14, 2008.** The legal deadline for you to mail abstracts and the turnout report is 10 days after the election. Put one copy of each abstract and the turnout report in the large return envelope and mail it to us. [50.30]

15. **County abstracts.** Keep one copy of the abstract of votes for each election in your election book. Do not send county abstracts to the Secretary of State. [50.28]

Auditor's Guide to the General Election

- 16. Abstracts for other jurisdictions.** If you have conducted a special election for a city, benefited district, or other political subdivision, send a copy of the abstract of votes to that jurisdiction. [50.27]

After the canvass

Certificates of election. Each person who was elected must receive a certificate of election. [50.29]

Canvass minutes not published. You are not required to publish the minutes of the canvass of votes. [349.16(1)]

3. State Canvass of Votes

Abstracts from counties. As soon as the abstracts begin arriving from the counties, the staff of the Secretary of State's Office begins tabulating the county results for state and federal offices.



Political party observers invited. The two political parties are invited to send observers to watch the tabulation of votes. [50.50]

State Board of Canvassers. The Iowa Executive Council consists of the Governor, Secretary of State, State Auditor, State Treasurer and the Secretary of Agriculture. These five people review the canvass materials prepared by the Secretary of State's staff and sign the abstracts and certificates of election for federal and state officers and judges. [50.37]

Completion deadline. The state canvass must be finished no later than Monday, December 1, 2008. [50.38]

Canvass Summary & Winners List. The Secretary of State publishes a report of the county-by-county vote totals and the names and addresses of the winners for each election. They are available free of charge from the Elections Division.

Presidential Electors. Presidential Electors meet on Monday, December 15, 2008 [54.6 & 54.7]

Election information on the Internet: <http://www.sos.state.ia.us/>

Appendix

Opinion of the Attorney General

Exit polls

1982 Iowa Op. Atty. Gen. 353
Opinion No. 82-2-1



1982 Iowa Op. Atty. Gen. 353, 1982 WL 42720 (Iowa A.G.)

Office of the Attorney General
State of Iowa

*1 Opinion No. 82-2-1
February 3, 1982

◀ **ELECTIONS** ▶: Persons Permitted at Polling Places. Chapter 49; [§§ 49.82, 49.90, 49.104, 49.107\(1\), \(2\), and \(6\), The Code 1981](#); Acts, 69th G.A., 1981 Session, Ch. 34, § 32; Acts, 65 G.A., 1973 Session, Ch. 136, § 171. ▶ **Pollsters** ▶ conducting a survey, according to the provisions of Ch. 49, are not persons permitted at a polling place. Nevertheless, such persons are permitted within three hundred feet of any outside door of any building affording access to any room where the ▶ **polls** ▶ are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the ▶ **polls** ▶ are held. (Walding to Sturgeon, State Representative, 2/3/82)

The Honorable Al Sturgeon
State Representative
State Capitol
LOCAL

Dear Representative Sturgeon:

You have requested an opinion of the Attorney General regarding whether a pollster may conduct a survey within a polling place on election day. Specifically, you have asked:

- (1) Is it legal for news media to conduct a poll to determine how a voter cast his or her ballot and why they voted for this person inside a precinct polling place during election hours?
- (2) If the answer to question #1 is affirmative, then how many may be present and is this limited to media only?
- (3) If the answer to question #1 is negative, then may this type of poll be conducted outside the doors of a voting precinct, but within 300 feet of the precinct doors on the polling place property?

Inserted in your request is a recital of the events which led to your opinion request. On election day, you submit that a local television station, in conjunction with a local college, conducted on ▶ **exit** ▶ poll in

Auditor's Guide to the General Election

each of Sioux City's thirty-four precincts. The ←pollsters→ operating inside the polling place, allegedly asked exiting voters to participate in a survey. The voters were questioned as to which candidate they had voted and on which issues they had based their electoral decision. When this practice was contested, the Woodbury Election Commissioner ordered the pollster to leave the polling place. In compliance with the Commissioner's order, the ←pollsters→ removed themselves from the polling place. For the remainder of the election, the survey was conducted outside of the polling place. Subsequent to your request, a brief was submitted to our office on behalf of the television station which sponsored the survey. Counsel for the station contend that the facts which they submit 'more accurately portray the events of election day' than those contained in your opinion request. At the outset, we feel compelled to state the appropriate purposes of an Attorney General's opinion. While it is appropriate for this office to express an opinion on legal issues, it is improper for us to engage in judicial fact-finding in the context of an opinion. Accordingly, our discussion will be limited to matters of law, not fact. [\[FN1\]](#)

*2 The applicable chapter of the Code, as you know, is Ch. 49. Chapter 49, governing the method of conducting ←elections→, was enacted to insure fair and impartial ←elections→. The particular sections of the chapter which will be discussed, [§§ 49.104](#) and [49.107, The Code 1981](#), provide for the regulation of the polling place during an election. Together, the aforementioned sections preserve the sanctity of the polling place, assuring that the right of suffrage remains untrammelled and unfettered. Balanced against the prior concern is a countervailing interest. The First Amendment, which applies to the States through the Fourteenth, prohibits laws 'abridging the freedom of speech, or of the press.' Accordingly, at a certain point, concern for the sanctity of the polling place and the right of suffrage will give way to concern for First Amendment rights.

With the foregoing presented, attention is now directed to your first inquiry. Discussion will focus on three sections, [§§ 49.104](#), [49.107\(2\)](#), and [49.107\(6\), The Code 1981](#). First, [§ 49.104, The Code 1981](#), as amended by Acts, 69 G.A., 1981 Session, Ch. 34, § 32, provides:

The following persons shall be permitted to be present at and in the immediate vicinity of the polling places, provided they do not solicit votes:

1. Any person who is by law authorized to perform or is charged with the performance of official duties at the election.
2. Any number of persons, not exceeding three from each political party having candidates to be voted for at such election, to act as challenging committees, who are appointed and accredited by the executive or central committee of such political party or organization.
3. Any number of persons not exceeding three from each of such political parties, appointed and accredited in the same manner as above prescribed for challenging committees, to witness the counting of ballots. Subject to the restrictions of section 51.11, the witnesses may observe the counting of ballots by a counting board during the hours the ←polls→ are open in any precinct for which double election boards have been appointed.
4. Any peace officer assigned or called upon to keep order or maintain compliance with the provisions of this chapter, upon request of the commissioner or of the chairman of the precinct election board.
5. One observer representing any nonparty political organization, any candidate nominated by petition pursuant to chapter 45, or any other nonpartisan candidate in a city or school election, appearing on the ballot of the election in progress.

NEW SUBSECTION. Any persons expressing an interest in a ballot issue to be voted upon at an election except a general or primary election. Any such person shall file a notice of intent to serve as an observer with the commissioner prior to election day. If more than three such persons file a notice of intent with respect to ballot issues at any election, the commissioner shall appoint from those submitting a notice of intent three persons to serve as observers. The appointees, whenever possible, shall include both opponents and proponents of the ballot issues.

*3 In construing the aforementioned section, familiar principles of statutory construction are applicable. Express mention of one thing in a statute implies the exclusion of others. Stated otherwise, legislative intent is expressed by omission as well as by inclusion. See [In Re Estate of Wilson, 202 N.W.2d 41, 44 \(Iowa 1972\)](#). Expressio Unis Est Exclusio Alterius is the legal maxim. If fairly possible, unreasonable or absurd consequences should be avoided. See [Janson v. Fulton, 162 N.W.2d 438, 442 \(Iowa 1968\)](#). The construction of any statute must be reasonable and must be sensibly and fairly made with a view of carrying out the obvious intentions of the legislature. Id. The goal in construing a statute is to ascertain legislative intent in order, if possible, to give it effect. See [State v. Prybil, 211 N.W.2d 308, 311 \(Iowa 1973\)](#). Effect is to be given to the entire statute in construing same. Id. Other pertinent statutes must be considered. Id.

Auditor's Guide to the General Election

Emerging from the application of the foregoing principles to [§ 49.104, The Code 1981](#), are three themes. First, the applicable statute makes express mention of election officials, party and non-party poll watchers, and peace officers as persons permitted at the polling place on election day. No mention of **pollsters** conducting a survey, however, is found in the statute. Second, an absurd result is not obtained when those persons not expressly permitted at the polling place in the statute are excluded. Although counsel for the station contend that such a construction will result in the exclusion of voters and those who would assist handicapped and elderly voters from the polling place, their presence is provided for elsewhere in the Code. The presence of the voter in the polling place can be inferred from [§ 49.82, The Code 1981](#); whereas, the presence of those assisting voters is specifically provided for in [§ 49.90, The Code 1981](#). Finally, a legislative intent to limit the number of persons permitted at the polling place to those expressly mentioned can be inferred. In 1973, the General Assembly amended the statute to permit peace officers to be present at and in the immediate vicinity of the polling place, despite provision in § 49.105 authorizing any precinct election official to order the arrest of any person disrupting the polling place. See Acts, 65 G.A., 1973 Session, Ch. 136, § 171. The inclusion of peace officers as persons permitted at the polling place, therefore, emphasizes the legislative intent to exclude unauthorized persons. Accordingly, principles of statutory construction support the exclusion of unauthorized persons under [§ 49.104, The Code 1981](#).

Additional support can be mustered for that proposition. First, policy considerations favor a statute limiting the number of persons permitted at the polling place to those expressly mentioned. Such a statute: avoids crowding; assures fair and impartial **elections**; maintains the secrecy of the ballot; preserves a neutral and detached polling place, a place of deliberation; prevents coercion and intimidation of voters; avoids unauthorized persons from being perceived as part of the electoral process; and preserves order. In addition, 29 C.J.S. **Elections** § 200, p. 555 (1965), citing to [Taylor v. Neutzel, 220 Ky. 510, 295 S.W. 873 \(1927\)](#), states that '[u]nauthorized persons should be excluded from the polling place.' Thus, policy considerations and an authority support the exclusion of unauthorized persons from a polling place on election day under [§ 49.104, The Code 1981](#).

*4 Accordingly, [§ 49.104, The Code 1981](#), provides for the exclusion of unauthorized persons on election day from a polling place. **Pollsters** conducting a survey, because they are not authorized persons under that statute, are not persons permitted at a polling place on election day.

[Section 49.107\(2\), The Code 1981](#), prohibits, '[i]nterrupting, hindering, or opposing any voter while in or approaching the polling place for the purpose of voting.' [Emphasis added] Since the General Assembly did not define the term 'interrupting', an extraneous definition must be adopted. Where a statute contains no definition of certain words used in the statute, the words should be construed according to their approved usage. See [State ex rel. Turner v. Drake, 242 N.W.2d 707 \(Iowa 1976\)](#).

The word 'interrupt', according to [State v. Davis, 21 Ohio App.2d 261, 263, 257 N.E.2d 79, 81 \(1969\)](#) means 'to stop by breaking in: halt, hinder, or interfere with the continuation of some activity.' Webster's New World Dictionary 737 (2d ed. 1978) defines 'interrupt', in part, to mean 'to make a break in the continuity of; cut off; obstruct.' The stopping of a voter to elicit his or her response to a survey, under either definition, would constitute 'interrupting' a voter. Accordingly, conducting a survey while in a polling place is a prohibited act on election day under [§ 49.107\(2\), The Code 1981](#). However, by its own terms, [§ 49.107\(2\), The Code 1981](#), is applicable only to 'interrupting' a voter 'while in or approaching the polling place for the purpose of voting.' Once the voter has left the polling place, the section would be inapplicable and would constitute no obstacle to 'exist polling.'

The final section to be addressed in response to your first inquiry is [§ 49.107\(6\), The Code 1981](#). That section prohibits, '[e]ndeavoring to induce a voter to show how he marks or has marked his ballot.' [Emphasis added] Such practice is prohibited regardless of the vicinity to a polling place. Again, an extraneous definition must be sought.

The court in [People v. Jaskowitz, 173 Misc. 685, 691, 18 N.Y.S.2d 897, 903 \(1940\)](#), held that 'induce' means 'to influence the actions of others either by hope of reward or fear of reprisal.' Webster's New World Dictionary 718 (2d ed. 1978) defines 'induce', in part, to mean 'to lead on to some action, condition, belief, etc.; prevail on; persuade.' The word 'induce', therefore, contemplates an effort to influence an act or course of conduct of another. As such, 'endeavoring to induce' means attempting to influence. As long as a survey consists of nothing more than a request for voluntary cooperation, it is not an attempt or endeavor to influence or induce. Thus, conducting a survey is not a practice prohibited regardless of the vicinity to a polling place.

Accordingly, **pollsters** conducting a survey, because they are not authorized persons under [§](#)

Auditor's Guide to the General Election

[49.104, The Code 1981](#), are not persons permitted at a polling place on election day. Further, conducting a survey while in a polling place is a prohibited act on election day under [§ 49.107\(2\), The Code 1981](#). Conducting a survey, however, is not a practice prohibited regardless of the vicinity to a polling place. In response to your first inquiry then, **pollsters** conducting a survey, according to the provisions of Ch. 49, are not persons permitted at a polling place.

*5 A negative response to the preceding question makes your second inquiry moot. Attention, therefore, is now directed to the third question. Discussion will focus on a single section.

[Section 49.107\(1\), The Code 1981](#), prohibits, inter alia, loitering or congregating:

either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the **polls** are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the **polls** are held . . . [Footnotes omitted]

A brief discussion of such statutes is found in 29 C.J.S. **Elections** § 200, p. 555-56 (1965).

According to that authority:

Election statutes sometimes require that all persons, except persons in the course of voting, election officers, clerks, watchers, and the like, remain a certain distance from the polling place during the progress of the voting. Such statutes are reasonable police regulation designed to preserve order and to maintain the secrecy of the ballot . . . [Footnotes omitted]

The legislature, therefore, can regulate within a certain distance of the polling place.

For the third time in the opinion, an extraneous definition must be extracted for terms of a statute. In this case, however, two terms must be defined: 'loitering' and 'congregating.'

The word 'loitering', according to [Jacobs v. Transcontinental & Western Air, 358 Mo. 674, 679, 216 S.W.2d 523, 526 \(1949\)](#), means 'to linger, to delay, to be slow moving.' Webster's New World Dictionary 832 (2d ed. 1978) defines 'loiter', in part, to mean 'to spend time idly; linger in an aimless way.' It should be obvious that **pollsters** conducting a survey are neither dilatory, nor idle with respect to their actions. Rather, their actions are purposeful and their efforts to seek volunteers in order to compile data on candidate support and issues are deliberate. Accordingly, **pollsters** conducting a survey are not loitering.

As to the term 'congregating', [People v. Carcel, 144 N.E.2d 81, 85, 3 N.Y.2d 327, 333, 165 N.Y.S. 2d 113, 117 \(1957\)](#), states that it 'implies and is usually applicable to the coming together of a considerable number of persons . . . or a crowd.' Webster's New World Dictionary 299 (2d ed. 1978) defines 'congregate', in part, to mean 'to collect into a flock, gather, to gather into a mass or crowd; collect; assemble.' The word 'congregating', therefore, contemplates an assemblage of a mass or a crowd. Although a survey necessitates a minimum of two persons, a pollster and a subject, their meeting ordinarily will not qualify as 'congregating.' [FN2] Thus, **pollsters** conducting a survey are not congregating.

Accordingly, **pollsters** conducting a survey are neither loitering, nor congregating. In response to your third inquiry then, such persons are permitted within three hundred feet of any outside door of any building affording access to any room where the **polls** are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the **polls** are held.

*6 We buttress our reply with a First Amendment consideration. A contrary ruling may not withstand a constitutional challenge. As was noted in our introductory remarks, concern for First Amendment rights of free speech and freedom of the press exceeds concern for the sanctity of the polling place and the right of suffrage at a certain point. Effective foreclosure of surveying techniques may result by restricting such activity to outside a three hundred foot perimeter from the polling place. Conversely, a voter need only refuse to submit to the survey. Absent a clear legislative decree, therefore, any uncertainty should be weighted in favor of First Amendment rights.

In summary, **pollsters** conducting a survey, according to the provisions of Ch. 49, are not persons permitted at a polling place. Nevertheless, such persons are permitted within three hundred feet of any outside door of any building affording access to any room where the **polls** are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the **polls** are held.

Very truly yours,

Auditor's Guide to the General Election

Lynn M. Walding
Assistant Attorney General

[FN1] Nevertheless, it is incumbent upon us to make one factual presumption. In the opinion, it is presumed that the results of the survey were not released prior to the close of the ◀polls.▶ Neither your opinion request, the station's brief, nor any other source has contended otherwise. Accordingly, we reserve comment on that issue for a later opinion.

[FN2] This is not to suggest that such a situation could not arise (e.g. the assemblage of numerous ◀pollsters▶ or subjects simultaneously). Again, we reserve comment on that issue for a later opinion.
1982 Iowa Op. Atty. Gen. 353, 1982 WL 42720 (Iowa A.G.)
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