

Subject: Tarrant County Elections Office - Records Request EL-2024-151 Completed

Date: Thursday, May 2, 2024 at 11:20:27 AM Eastern Daylight Time

From: JustFOIA Notification <donotreply@request.justfoia.com>

To: AO Records <records@americanoversight.org>

EXTERNAL SENDER

Dear Requestor,

The request [Request Number: EL-2024-151](#) has been completed. Please click on the request link to download the response documentation.

Thank you,

Tarrant County, TX

Tarrant County Elections Office
2700 Premier St.
Fort Worth, TX 76111
(817) 884-8683
ElectionsPIR@Tarrantcountytexas.gov

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Jane Nelson
Secretary of State

ELECTION ADVISORY NO. 2024-05

To: All Election Officials

From: Christina Worrell Adkins, Director of Elections *CWA*

Date: January 24, 2024

RE: Public Inspection of Ballot Images and Cast Vote Records and Ballot Security (HB 5180)

Introduction

This advisory is intended to advise counties of changes in the law passed during the 88th Regular Session (2023) in regards to public inspection of ballot images and cast vote records. Additionally, this advisory will provide explanations and guidance on the new law and ballot security issues.

All statutory references in this advisory are to the Texas Election Code (“the Code”), unless otherwise indicated.

Public Inspection of Ballot Images and Cast Vote Records

House Bill 5180 (88th Leg., R.S., 2023) amended Section 1.012 of the Code, effective September 1, 2023, to provide that, beginning on the first day after the date of the final canvass for an election, the general custodian of election records shall make available for public inspection any election records that are images of voted ballots (if maintained) or cast vote records. The bill further clarifies that original voted ballots shall be made available for public inspection beginning on the 61st day after election day. The general custodian of election records must adopt procedures to ensure that any personally identifiable information of a voter that is contained on a ballot is redacted before making the voted ballot available for public inspection.

Under HB 5180, Section 1.012 of the Code now provides a deadline for making ballot images and cast vote records available for public inspection that is different from the deadline for making other election records available for public inspection. Additionally, the general custodian of election records must adopt procedures to ensure that personally identifiable information that may be

contained on those ballot images and cast vote records has been redacted before such records are made publicly available for inspection.

Since ballot images and cast vote records are available for public inspection beginning on the first day after the final canvass of the election, a general custodian of election records may begin the redaction process for those particular records as soon as practicable following the final canvass. We recommend that entities work closely with their legal counsel and public information divisions to ensure that records have been properly redacted before being made publicly available. Any questions or concerns about the time needed to respond to a request to inspect, or obtain copies of, public information should be directed to the Open Government Hotline at the Office of the Attorney General at (877) 673-6839.

Public Inspection of Voted Ballots After an Election

HB 5180 did not amend Section 66.058 of the Code, which requires voted ballots to be preserved securely in a locked room in the original locked ballot box for at least 60 days after the date of the election. An unauthorized entry into the ballot box containing voted ballots or the failure to prevent an unauthorized entry into the ballot box containing voted ballots constitutes a Class A misdemeanor. This means that original voted ballots may not be accessed during the 60-day period except in the event of a recount or another authorized entry into the ballot box. Therefore, any redaction of personally identifiable information of a voter on voted ballots should not begin until after the 60-day period has elapsed.

For public information requests related to voted ballots, the Secretary of State recommends that the general custodian of election records establish a written policy that specifies procedures for providing access to anonymous voted ballots through public inspection.

The general custodian's policy should, at a minimum, include the following provisions:

- A defined time period for public inspection consistent with the Public Information Act.
- A log of all individuals accessing the anonymous voted ballots during the defined time period.
- General regulations regarding access to the ballots, including the following protocols:
 - **At least one member of the general custodian's staff must be present at all times in the room containing the voted ballots while public inspection is taking place.**
 - Pens, pencils, and other marking devices are prohibited in the room containing the voted ballots.
 - Food and beverages are prohibited in the room containing the voted ballots.
 - Voted ballots must be kept in the same stacks, containers, or boxes, whichever is applicable, while public inspection is taking place.
 - Voted ballots may not be removed from the room in which public inspection is taking place.
 - Imaging devices may be used to take photos or make copies of the voted ballots.

If the general custodian has video surveillance available, the Secretary of State recommends that the custodian utilize the surveillance system to monitor all activities in the inspection room during

the time that the ballots are made available for public inspection. In the space where the general custodian is providing public access to the anonymous voted ballots, the general custodian should ensure that all other materials unrelated to the ballot request are removed from that location.

Management and Retention of Election Records

Voted paper ballots are the official ballot of record for recounts and election contests. If the general custodian does not already have anonymous voted ballots scanned or imaged, they may want to consider imaging them prior to public inspection to ensure that there is a record of the image prior to public inspection taking place. If the files are being provided in any electronic format, the Secretary of State strongly recommends that you calculate a hash value to validate the integrity of the files and to ensure they are not altered in any way. If you need guidance on calculating a hash, please contact the Elections Division's election security training team for assistance.

Under Section 66.058 of the Code, election records must be preserved for at least 22 months after election day. Section 1.012 of the Code defines the term election record to include ballot images, cast vote records and voted ballots. At the conclusion of the retention period, contents of locked ballot boxes or secure containers may only be destroyed if there is no election contest, criminal investigation, or pending public information request that has yet to be fulfilled. (Secs. [1.012](#), [66.058](#)). Entities should also consult with their legal counsel and any records management officers before disposing of such materials after the 22-month retention period.

If you have any questions or situations that are not covered by this advisory, please do not hesitate to contact the Elections Division toll-free at 1-800-252-2216.

CA:HM:AM

Inspecting sensitive documents in-person.



Version	9
Last revision Date	August 2023

First and foremost, the integrity and condition of the documents must be maintained throughout the process. To that end, the Tarrant County Elections Administration (“Elections”) adopts the following rules of procedure pursuant to Texas Government Code section 552.230 relating to the inspection of sensitive documents:

1. The term “documents” refers to any physical records being interacted with, to include paper ballots, handwritten notes and printouts.
2. Requests to conduct an in-person inspection must be made a minimum of three (3) business days in advance of the desired date of inspection.
3. Dates will be scheduled based on availability of space and resources. Because Elections is consistently in the process of preparing for or conducting an election, it may be up to 90 days or more before an in-person inspection of documents at Elections can be scheduled. Elections will make every effort to allow an in-person inspection of documents as soon as practicable but cannot guarantee any specific turnaround time for every request.
4. Per Texas Government Code section 552.225(a), requestors have up to 10 business days to complete their inspection of documents and may only do so during normal business hours of the Elections Administration.
 - a. Normal business hours are Monday through Friday, 8 AM to 5 PM, excluding County holidays.
5. There will be specific tables designated for handling the documents:
 - a. No writing or marking instruments are allowed around the documents while they are on the inspection tables.
 - b. No food or drinks are allowed on the inspection tables.
6. All interaction with the documents by non-elections personnel may be subject to both video and in-person monitoring.
7. No more than one box or container (insomuch as the documents are in boxes or containers) may be accessed per table.
 - a. In the event that the documents are not boxed, Elections may limit the number of documents that may be accessed at the same time as allowed by physical restrictions and/or availability of said documents to avoid any potential issues.
8. All documents MUST be returned to the original box from which they were removed, and no other/additional documents may be placed in a box without express written approval by either the Elections Administrator or Assistant Elections Administrator.
 - a. This includes mixing or swapping documents from one box with the contents of another.
9. The number of persons allowed simultaneous access to the documents is limited to the amount of space available in order to reasonably monitor such access but will not exceed the capacity as determined by Elections at any given time.
10. Laptops, tablets, or any other electronic devices which contain network capability are not allowed to be connected to any County network.
 - a. Ethernet cables are strictly prohibited in the inspection area.
 - b. Any attempt to plug a device into an Ethernet jack in the Elections building at any time is prohibited.
 - c. Laptops, tablets, cell phone, and other electronic devices that do not have Ethernet cables attached may be brought into the inspection area.

Adherence to these guidelines is mandatory. Failure to comply with the policy can result in Elections asking the person to leave and the review of documents being rescheduled to a future date.

ELECTION CODE

TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. SHORT TITLE. This code may be cited as the Election Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.0015. LEGISLATIVE INTENT. It is the intent of the legislature that the application of this code and the conduct of elections be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 1.04, eff. December 2, 2021.

Sec. 1.002. APPLICABILITY OF CODE. (a) This code applies to all general, special, and primary elections held in this state.

(b) This code supersedes a conflicting statute outside this code unless this code or the outside statute expressly provides otherwise.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.003. CONSTRUCTION OF CODE. (a) The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

(a-1) Election officials and other public officials shall strictly construe the provisions of this code to effect the intent of the legislature under Section 1.0015.

(b) When a provision of this code provides that it supersedes another specifically referenced provision of this code to the extent of any conflict, no conflict is created by the failure of the superseding provision, or of related provisions, to repeat the substance of the referenced provision; rather, a conflict exists only if the substance of the superseding and any related provisions is irreconcilable with the

substance of the referenced provision. If the substance of the superseding provision, together with any related provisions, and the substance of the referenced provision can each be applied to the same subject or set of circumstances, both provisions shall be given effect.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 54, Sec. 17, eff. Sept. 1, 1987.

Amended by:

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 1.05, eff. December 2, 2021.

Sec. 1.004. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.005. DEFINITIONS. In this code:

(1) "City secretary" includes a city clerk or, in a city that has no city secretary or clerk, the city officer who performs the duties of a city secretary.

(2) "County election precinct" means an election precinct established under Section 42.001.

(3) "County office" means an office of the county government that is voted on countywide.

(4) "District office" means an office of the federal or state government that is not voted on statewide.

(4-a) "Election official" means:

(A) a county clerk;

(B) a permanent or temporary deputy county clerk;

(C) an elections administrator;

(D) a permanent or temporary employee of an elections administrator;

(E) an election judge;

(F) an alternate election judge;

(G) an early voting clerk;

(H) a deputy early voting clerk;
(I) an election clerk;
(J) the presiding judge of an early voting ballot board;
(K) the alternate presiding judge of an early voting ballot board;

(L) a member of an early voting ballot board;
(M) the chair of a signature verification committee;
(N) the vice chair of a signature verification committee;
(O) a member of a signature verification committee;
(P) the presiding judge of a central counting station;
(Q) the alternate presiding judge of a central counting station;

(R) a central counting station manager;
(S) a central counting station clerk;
(T) a tabulation supervisor;
(U) an assistant to a tabulation supervisor; and
(V) a chair of a county political party holding a primary election or a runoff primary election.

(4-b) "Federal judge" means:

(A) a judge, former judge, or retired judge of a United States court of appeals;

(B) a judge, former judge, or retired judge of a United States district court;

(C) a judge, former judge, or retired judge of a United States bankruptcy court; or

(D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

(5) "Final canvass" means the canvass from which the official result of an election is determined.

(6) "General election" means an election, other than a primary election, that regularly recurs at fixed dates.

(7) "General election for state and county officers" means the general election at which officers of the federal, state, and county governments are elected.

(8) "Gubernatorial general election" means the general election held every four years to elect a governor for a full term.

(9) "Independent candidate" means a candidate in a nonpartisan election or a candidate in a partisan election who is not the nominee of a political party.

(10) "Law" means a constitution, statute, city charter, or city ordinance.

(11) "Local canvass" means the canvass of the precinct election returns.

(12) "Measure" means a question or proposal submitted in an election for an expression of the voters' will.

(13) "Political subdivision" means a county, city, or school district or any other governmental entity that:

(A) embraces a geographic area with a defined boundary;

(B) exists for the purpose of discharging functions of government; and

(C) possesses authority for subordinate self-government through officers selected by it.

(14) "Primary election" means an election held by a political party under Chapter 172 to select its nominees for public office, and, unless the context indicates otherwise, the term includes a presidential primary election.

(15) "Proposition" means the wording appearing on a ballot to identify a measure.

(16) "Registered voter" means a person registered to vote in this state whose registration is effective.

(17) "Residence address" means the street address and any apartment number, or the address at which mail is received if the residence has no address, and the city, state, and zip code that correspond to a person's residence.

(18) "Special election" means an election that is not a general election or a primary election.

(18-a) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, a constitutional county court, a county court at law, or a statutory probate court of this state;

(B) an associate judge appointed under Chapter 201, Family Code, or a retired associate judge or former associate judge appointed under that chapter;

(C) a magistrate or associate judge appointed under Chapter 54 or 54A, Government Code;

(D) a justice of the peace; or

(E) a municipal court judge.

(19) "Statewide office" means an office of the federal or state government that is voted on statewide.

(20) Repealed by Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

(21) "Uniform election date" means an election date prescribed by Section 41.001.

(22) "Voting station" means the voting booth or other place where voters mark their ballots or otherwise indicate their votes at a polling place.

(23) "Voting year" means the 12-month period beginning January 1 of each year.

(24) "Presidential primary election" means an election held under Subchapter A, Chapter 191, at which a political party's voters are given an opportunity to express their preferences for the party's presidential candidates, or for an "uncommitted" status if provided by party rule, for the purpose of determining the allocation of the party's delegates from this state to the party's national presidential nominating convention.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1986, 69th Leg., 3rd C.S., ch. 14, Sec. 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 436, Sec. 9, eff. Sept. 1, 1989; Acts 1987, 70th Leg., ch. 472, Sec. 52, eff. Sept. 1, 1989.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1146 (H.B. 2910), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 1.06, eff. December 2, 2021.

Sec. 1.006. EFFECT OF WEEKEND OR HOLIDAY. (a) If the last day for performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day, except as otherwise provided by this code.

(b) If the last day for performance of an act is extended under Subsection (a), the extended date is used to determine any other dates and deadlines, and the dates or times of any related procedures, that are expressly required to be made on a date or at a time determined in relation to the last day for performance of the act.

(c) A declaration of ineligibility of a candidate is considered to be the performance of an act under this section for purposes of causing the candidate's name to be omitted from the ballot.

(d) The filing of a document, including a withdrawal request or resignation, is considered to be the performance of an act under this section for purposes of creating a vacancy to be filled at a subsequent election.

(e) The death of a person is not considered to be the performance of an act under this section.

(f) In this code:

(1) "National holiday" means:

(A) a legal public holiday under 5 U.S.C. Section 6103; and

(B) if a holiday described by Paragraph (A) occurs on a Saturday or Sunday, a holiday taken in lieu of that holiday on which there is no regular United States mail delivery.

(2) "State holiday" means a state holiday under Sections 662.003(b)(1) through (6), Government Code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 84 (S.B. 1703), Sec. 2, eff. September 1, 2015.

Sec. 1.007. DELIVERING, SUBMITTING, AND FILING DOCUMENTS. (a) When this code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under this code, a delivery, submission, or filing with an employee of the authority at the authority's usual place for conducting official business constitutes filing with the authority.

(b) The authority to whom a delivery, submission, or filing is required by this code to be made may accept the document or paper at a place other than the authority's usual place for conducting official business.

(c) A delivery, submission, or filing of a document or paper under this code may be made by personal delivery, mail, telephonic facsimile machine, e-mail, or any other method of transmission.

(d) Any other provision of this code supersedes this section to the extent of any conflict.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1178 (S.B. 910), Sec. 1, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 711 (H.B. 3107), Sec. 1, eff. September 1, 2021.

Sec. 1.008. TIMELINESS OF ACTION BY MAIL. When this code requires an application, notice, report, or other document or paper to be delivered, submitted, or filed within a specified period or before a specified deadline, a delivery, submission, or filing by first-class United States mail is timely, except as otherwise provided by this code, if:

- (1) it is properly addressed with postage prepaid; and
- (2) it bears a post office cancellation mark indicating a time within the period or before the deadline, or if the person required to take the action furnishes satisfactory proof that it was deposited in the mail within the period or before the deadline.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.009. TIME OF RECEIPT OF MAILED DOCUMENT. (a) When this code provides that an application, notice, or other document or paper that is delivered, submitted, or filed by mail is considered to be delivered, submitted, or filed at the time of its receipt by the appropriate authority, the time of receipt is the time at which a post office employee:

- (1) places it in the actual possession of the authority or the authority's agent; or
- (2) deposits it in the authority's mailbox or at the usual place of delivery for the authority's official mail.

(b) If the authority cannot determine the time at which a deposit under Subsection (a)(2) occurred or whether it occurred before a specified deadline, the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery, as applicable, was last inspected for removal of mail.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 2, eff. Sept. 1, 1997.

Sec. 1.010. AVAILABILITY OF OFFICIAL FORMS. (a) The office, agency, or other authority with whom this code requires an application, report, or other document or paper to be submitted or filed shall make printed forms for that purpose, as officially prescribed, readily and timely available.

(b) The authority shall furnish forms in a reasonable quantity to a person requesting them for the purpose of submitting or filing the document or paper.

(c) The forms shall be furnished without charge, except as otherwise provided by this code.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.011. SIGNING DOCUMENT BY WITNESS. (a) When this code requires a person to sign an application, report, or other document or paper, except as otherwise provided by this code, the document or paper may be signed for the person by a witness, as provided by this section, if the person required to sign cannot do so because of a physical disability or illiteracy.

(b) The person who cannot sign must affix the person's mark to the document or paper, which the witness must attest. If the person cannot make the mark, the witness must state that fact on the document or paper.

(c) The witness must state on the document or paper the name, in printed form, of the person who cannot sign.

(d) The witness must affix the witness's own signature to the document or paper and state the witness's own name, in printed form, near the signature. The witness must also state the witness's residence address unless the witness is an election officer, in which case the witness must state the witness's official title.

(e) The procedure prescribed by this section must be conducted in the presence of the person who cannot sign.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 3, eff. Sept. 1, 1997.

Sec. 1.012. PUBLIC INSPECTION OF ELECTION RECORDS. (a) Subject to Subsection (b), an election record that is public information shall be made available to the public during the regular business hours of the record's custodian.

(b) For the purpose of safeguarding the election records or economizing the custodian's time, the custodian may adopt reasonable rules limiting public access.

(c) Except as otherwise provided by this code or Chapter 552, Government Code, all election records are public information.

(d) In this code, "election record" includes:

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(1) anything distributed or received by government under this code;

(2) anything required by law to be kept by others for information of government under this code; or

(3) a certificate, application, notice, report, or other document or paper issued or received by government under this code.

(e) Except as provided by Subsections (f) and (g), an election record shall be available not later than the 15th day after election day in an electronic format for a fee of not more than \$50.

(f) Beginning on the first day after the date the final canvass of an election is completed, the general custodian of election records shall make available for public inspection election records that are:

(1) images of voted ballots, if a county maintains images of voted ballots; or

(2) cast vote records.

(g) Beginning on the 61st day after election day, the general custodian of election records shall make available for public inspection election records that are original voted ballots.

(h) The custodian shall adopt procedures to ensure the redaction of any personally identifiable information of the voter contained on a ballot before making the voted ballot available for public inspection.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 393, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1215 (S.B. 902), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 894 (H.B. 5180), Sec. 1, eff. September 1, 2023.

Sec. 1.013. DESTRUCTION OF RECORDS. After expiration of the prescribed period for preserving voted ballots, election returns, other election records, or other records that are preserved under this code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding in connection with an election to which the records pertain is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.014. ELECTION EXPENSES. (a) Except as otherwise provided by law, the expenses incurred in the conduct of a general or special election shall be paid by the political subdivision served by the authority ordering the election.

(b) Each county in the territory covered by an election ordered by the governor shall pay the expenses incurred in that particular county in the conduct of the election.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 1.015. RESIDENCE. (a) In this code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence.

(b) A person may not establish residence for the purpose of influencing the outcome of a certain election.

(c) A person does not lose the person's residence by leaving the person's home to go to another place for temporary purposes only.

(d) A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home.

(e) A person who is an inmate in a penal institution or who is an involuntary inmate in a hospital or eleemosynary institution does not, while an inmate, acquire residence at the place where the institution is located.

(f) A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 869 (S.B. [1111](#)), Sec. 1, eff. September 1, 2021.

Sec. 1.016. OATHS BY ELECTION OFFICERS. (a) An oath or statement required by the Texas Constitution or this code prior to an election

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officer entering service may be administered and a certificate of the fact given by:

- (1) the secretary of state, a member of the secretary of state's staff, or a state inspector appointed by the secretary;
- (2) a county or municipal clerk or the clerk's deputies;
- (3) a county tax assessor-collector or the county tax assessor-collector's deputies;
- (4) a city secretary;
- (5) a member of a county election commission or county election board;
- (6) a county elections administrator or employee of a county elections administrator;
- (7) the secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code;
- (8) a presiding election judge or alternate presiding judge who has already entered service;
- (9) an early voting clerk or a deputy early voting clerk who has already entered service;
- (10) a member of an early voting ballot board or signature verification committee who has already entered service; or
- (11) a presiding judge, manager, or tabulation supervisor of a central counting station who has already entered service.

(b) An oath, statement, or certificate described under Subsection (a) is valid for the duration of the election officer's term of office and shall be filed with election records for the election in which the election officer is serving.

(c) The secretary of state may prescribe a form of oath, statement, or certificate that incorporates any oaths or statements required by the Texas Constitution or this code for an election officer into a single oath or statement.

Added by Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. 1735), Sec. 1, eff. September 1, 2017.

Sec. 1.017. INELIGIBILITY NO DEFENSE TO PROSECUTION. It is no defense to prosecution under this code that a person who receives an official ballot is ineligible to vote in the election for which the ballot is received.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003.

TX-TARRANT-24-0246-A-000015

Sec. 1.018. APPLICABILITY OF PENAL CODE. In addition to Section 1.03, Penal Code, and to other titles of the Penal Code that may apply to this code, Titles 2 and 4, Penal Code, apply to offenses prescribed by this code.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. 1), Sec. 1.07, eff. December 2, 2021.

Sec. 1.019. REQUIRED EVIDENCE OR TESTIMONY. (a) A party to an offense under this code may be required to furnish evidence or testimony about the offense.

(b) Evidence or testimony required to be furnished under this section, or information directly or indirectly derived from that evidence or testimony, may not be used against the party providing the evidence or testimony in a criminal case except for a prosecution of aggravated perjury or contempt.

Added by Acts 2003, 78th Leg., ch. 393, Sec. 2, eff. Sept. 1, 2003.

Sec. 1.020. VOTING DISABILITY OR CANDIDACY DISQUALIFICATION: DETERMINATION OF MENTAL INCAPACITY. (a) A person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

(b) A person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's guardianship has been modified to include the right to vote or the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction.

Added by Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 21, eff. September 1, 2007.

Sec. 1.021. NOTICE OF POLLING PLACE LOCATION. When this code requires notice of a polling place location, the written notice must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place.

Added by Acts 2019, 86th Leg., R.S., Ch. 42 (H.B. [1241](#)), Sec. 1, eff. September 1, 2019.

Sec. 1.022. REASONABLE ACCOMMODATION OR MODIFICATION. A provision of this code may not be interpreted to prohibit or limit the right of a qualified individual with a disability from requesting a reasonable accommodation or modification to any election standard, practice, or procedure mandated by law or rule that the individual is entitled to request under federal or state law.

Added by Acts 2021, 87th Leg., 2nd C.S., Ch. 1 (S.B. [1](#)), Sec. 1.08, eff. December 2, 2021.

PIRs: How to Prepare for Election-Related Public Information Requests

SOS Webinar



What is Public Information?

- Information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:
 - By a governmental body;
 - For a governmental body, and the governmental body owns the information, has a right of access to the information, or spends or contributes public money for the purpose of creating or assembling the information; or
 - By an individual officer or employee of a governmental body in his or her official capacity if the information pertains to the official business of the governmental body.

Source: §552.002 of the Texas Government Code



Election Related Public Information

- What would be considered public information for purposes of the Election Code?
 - All election records are public information (§1.012)
 - Election records are anything distributed or received by the government under the Code;
 - Anything required by law to be kept by others for information of government under the Code;
 - Or, any certificate, application, notice, report, or any other paper or document received by the government under the Code.



Election Related Public Information

- Election Records:
 - Voter Registration Information
 - Precinct Election Records (§66.002)
 - Precinct election returns
 - Voting rosters
 - Voted ballots
 - Candidate Applications



Voter Registration Information

- Any person may request a list of registered voters from a voter registrar. (§18.008)
 - The requested list may exclude voters on the “S” list or similar notation if it is requested in that form.
 - A copy of the “S” list may also be requested (§§15.082; 15.084)
 - The list should be provided as soon as practicable upon request, but no later than the 15th day after the request is received or the list is prepared.



Voter Registration Information

- Upon being provided with a voter registration list, the requestor must also be provided with written notice that use of information on the list for purposes of advertising or promoting commercial products or services is a Class A misdemeanor.



Voter Registration Information

- The following voter registration information is confidential and should **not** be disclosed as part of a public information request (§13.004):
 - Social Security Numbers
 - Texas Driver's License Numbers
 - Numbers on Personal ID cards issued by DPS
 - Residence addresses of federal or state judges, United States attorneys, and certain law enforcement personnel and their spouses provided they have filed the requisite affidavits/forms with the voter registrar to keep this information confidential
 - The residence address of a voter registration applicant if the applicant, the applicant's child or a person in the applicant's household is a victim of family violence, sexual assault or abuse, stalking or trafficking of persons.



Voter Registration Information

- The following voter registration information is confidential and should **not** be disclosed as part of a public information request (§13.004):
 - Any information submitted on a voter registration application for a participant in the address confidentiality program administered by OAG who has provided the voter registrar with proof of certification for participation in the program.
 - The telephone number of any applicant who has submitted documentation that the applicant, the applicant's child or another person in the applicant's household is a victim of family violence, sexual assault or abuse, stalking or trafficking of persons or is a participant in the address confidentiality program administered by the OAG.



Voter Registration Information

- Any information on the voter registration application/application for a ballot of a participant in the address confidentiality program administered by the Texas Attorney General (Chapter 56, Texas Code of Criminal Procedure) is confidential and is not considered to be public information.



Voter Registration Information

- The voter registrar may not transcribe, copy or otherwise record a telephone number furnished on a voter registration application.
- The voter registrar may transcribe, copy, or otherwise record a social security number furnished on the registration application ONLY in maintaining the accuracy of registration records.
- A voter registrar may not post on a website a telephone number, driver's license or personal ID card number, SSN, date of birth furnished on a voter registration application.

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OVERSIGHT



Voter Registration Information

- A voter registrar also may not post the residence address of:
 - an applicant who has submitted documentation that the applicant, the applicant’s child or another person in the applicant’s household is a victim of family violence, sexual assault or abuse, stalking or trafficking of persons or is a participant in the address confidentiality program administered by the OAG.
 - an applicant (and their family members) for whom the registrar has received notification from the Office of Court Administration of the person’s qualification as a federal or state judge, a United States attorney or a United States marshal.



Precinct Election Records

- Precinct election records are made public information when they are returned to the custodian of election records.
- Precinct election returns are not made public until the general custodian of election records has completed tabulation of the returns. (§66.057)
- All precinct election returns must be preserved for a period of twenty-two months. (§66.058)



Precinct Election Records

- In a primary election or the general election for state and county officers, the general custodian of election records must maintain a list that states the total number of votes cast in each precinct by personal appearance on election day.
- This list must be available for public inspection not later than the day after election day and also must be submitted to SOS for posting in a downloadable format on the SOS website.



Precinct Election Records

- **Counties with populations of 100,000+:** The general custodian of election records must implement a video surveillance system that retains a record of all areas containing voted ballots from the time the voted ballots are delivered to the CCS or to the EVBB/SVC until canvass of precinct election returns.
 - Recordings are public information and must be retained until the end of the calendar year of the election or an election contest has been resolved, whichever is later.



Precinct Election Records – Voted Ballots

- House Bill 5180 (2023) amended Section 1.012 of the Election Code to provide that the general custodian of election records must make available for public inspection any election records that are images of voted ballots or cast vote records beginning on the first day after the date of the final canvass of an election.
- The law also requires the general custodian of election records to adopt procedures to ensure the redaction of any personally identifiable information of a voter that may be contained on a ballot.



Precinct Election Records – Voted Ballots

- Voted ballots must be kept in a locked ballot box in a locked room for 60 days following election day.
 - The ballot box may not be opened during this time period
- Once the 60 day period has elapsed, the voted ballots may be transferred to another secure container and the key to the ballot box may be transferred to the custodian of election records.



Early Voting Rosters

- Early voting rosters are available for public inspection at the following times:
 - The early voting roster for voters who voted in person is available no later than 11:00 a.m. on the day following the date the information is entered on the roster (in other words, the day after the person voted).
 - The early voting roster for voters who voted by mail is available no later than 11:00 a.m. on the day following the day the early voting clerk receives the ballot voted by mail.
 - A roster of voters to whom an early voting ballot by mail has been sent is not available until the first business day after election day.
 - Applications for ballot by mail become public information on the first business day following the earliest election covered by the application.



Early Voting Rosters

NOTE: We recommend that you create two rosters for your mail ballots—one for ballots that have been mailed but not returned and a separate list of ballots by mail that have been received. Neither roster should explicitly state that a voter on the list has submitted an Annual ABBM.



Candidate Applications

- Candidate applications for a place on the ballot are public information immediately upon being filed. (§ 141.035)
- The filing authority for a candidate application must preserve the applications for a period of two years after the election date.



Candidate Applications

- Section 552.1175 of the Government Code allows individuals covered by that section to withhold personal information contained in records maintained by a governmental body.
- Candidate applications containing personal information should be redacted if the individual has opted to restrict access to the information and has provided appropriate notice.
- The individual may opt to keep the information confidential after a public information request has been received.



Preparing for Public Inspection

- For information requests related to public inspection of voted ballots, we recommend establishing a **written** policy that identifies procedures for providing access to those records.



Preparing for Public Inspection

- The written policy should, at a minimum, include the following:
 - A defined time period for public inspection that is consistent with the Public Information Act
 - A log of all individuals accessing voted ballots during the defined time period.
 - Other general regulations regarding access, including:
 - **Have at least one member of the general custodian's staff present at all times in the room containing voted ballots while public inspection is taking place.**
 - Prohibition on pens, pencils and other marking devices in the room containing voted ballots.
 - Prohibition on food and beverages in the room containing voted ballots.
 - Voted ballots must remain in the same stacks, containers or boxes during public inspection and may not be removed from the room in which public inspection is taking place.
 - Imaging devices may not be used to take photos or make copies of voted ballots.



Management of Election Records

- The general custodian may want to consider having voted ballots scanned or imaged prior to public inspection.
- If files are being provided in an electronic format, we recommend calculating a hash value to validate the integrity of the files and to ensure they have not been altered.





CLINT LUDWIG
Elections Administrator

TROY HAVARD, CERA
Assistant Elections Administrator

TARRANT COUNTY ELECTIONS ADMINISTRATION

22 November 2023

In an effort to provide quality and timely responses to all requests submitted and in compliance with the provisions of the Texas Administrative Code (TAC), Texas Public Information Act (PIA), Texas Government Code (TGC) and Texas Elections Code (TEC), the Tarrant County Elections Administration (TCEA) is establishing time limits for Public Information Act Requestors, as allowed by TGC Section 552.275.

Section 552.275(a) states that, "A governmental body may establish reasonable monthly and yearly limits on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time."

Section 552.275(b) states that the yearly time limit may not be less than 36 (thirty-six) hours for a **requestor** during the 12-month period that corresponds to the fiscal year of the governmental body and that a monthly time limit may not be less than 15 hours for a **requestor** for a one-month period.

Section 552.275(d) requires TCEA to provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period.

In the event that a request results in the requestor exceeding the time limits established herein, Section 552.275(e) **requires** TCEA to provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by Sections 552.262(a) and (b).

Per Sections 552.275(g) and (h), If TCEA provides a requestor with a written statement and the time limits established herein have been exceeded, TCEA is **not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request** unless, on or before the 10th day after the date the written statement is provided, the requestor submits payment of the amount stated in the statement or provides identification to substantiate an exemption, as applicable. If the requestor fails to, or refuses to, provide payment or identification as required, the requestor is considered to have withdrawn the pending request for public information.

Section 552.275(n) states that TCEA may request photo identification for a requestor for the sole purpose of establishing that the requestor has not exceeded a time limit who has exceeded a limit established pursuant to Section 552.275(a) and concealed the requestor's identity. If TCEA requests photo identification for this purpose, pursuant to Section 552.275(o), TCEA must include with the request for photo identification a written estimate of the total cost, including materials, personnel time,

and overhead expenses necessary to comply with the request per Section 552.275(e) and a statement that describes the reason why the request for photo identification may apply to the requestor. A requestor may decline to provide identification and obtain the requested information by paying the charge assessed in the statement.

NOTE: Section 552.271(e) provides that a requestor who has exceeded a limit established by a governmental body under Section 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by TCEA.

Tarrant County's Fiscal Year (FY) begins on October 1 of each calendar year and ends on September 30 of the following calendar year (ex: FY 24 begins October 1, 2023 and ends September 30, 2024).

Tarrant County reserves the right to suspend the time limits for a requestor at its discretion.

Tarrant County Elections hereby establishes the following limits on time for each requestor, in order to more effectively serve the public as a whole: the yearly time limit is set at 108 hours per fiscal year, (three times the minimum allowed by law) and 24 hours per calendar month, (more than 1.5 times the minimum allowed by law). The effective date of this policy shall be the date of signature.



Clint Ludwig

Elections Administrator

ELECTIONS PUBLIC INFORMATION LAW

This outline is intended to summarize certain provisions of the Texas Election Code, Texas Government Code, and Texas Administrative Code related to public information requests for election records. Election officials should consult with their county or city attorney, other legal counsel, and/or public information coordinator for assistance with fulfilling a public information request. In addition, election officials may direct any questions about the procedures for responding to a public information request, including the timeframes for such responses, to the Office of the Attorney General (“OAG”) via its Open Government Hotline, at (512) 478-OPEN (6736) or toll-free at (877) 673-6839 (877-OPEN TEX).

I. Election Code and the Public Information (formerly Open Records) Act. All references are to sections in the Texas Election Code, unless otherwise indicated.

A. Election Records Public Unless Exception.

1. *Section 1.012* – An election record that is public information shall be made available to the public during regular business hours of the record’s custodian. **An election record shall be available not later than the 15th day after election day in an electronic format for a fee of not more than \$50.** However, for the purpose of safeguarding the election records or economizing the custodian’s time, the custodian may adopt reasonable rules limiting public access. Except as otherwise provided by the Election Code or Chapter 552, Texas Government Code, all election records are public information.

2. Chapter 552 of the Texas Government Code, commonly known as the Public Information Act, provides at Section 552.221:

i. (a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, “promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

ii. (b) An officer for public information complies with Subsection (a) by:

a) providing the public information for inspection or duplication in the offices of the governmental body; or

b) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued

under Subchapter F [of Chapter 552, Texas Government Code].

- iii. (b-1) In addition to the methods of production described by Subsection (b), an officer for public information for a governmental body complies with Subsection (a) by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the governmental body and accessible to the public, if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the governmental body must supply the information in the manner required by Subsection (b).
- iv. (b-2) If an officer for public information for a governmental body provides by e-mail an Internet location or uniform resource locator (URL) address as permitted by Subsection (b-1), the e-mail must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States mail, as provided by Subsection (b).
- v. (c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.
- vi. (d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.
- vii. (e) A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Sections 552.261 - 552.275 of the Texas Government Code regulate the charges that may be assessed for providing copies of public records. For a discussion of guidelines regarding what is a “reasonable time,” see Texas Attorney General’s Open Records Decision No. 467 (1987).

NOTE: For a comprehensive discussion of the Public Information Act, see the Attorney General's *Public Information Act Handbook 2022*, available at https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/publicinfo_hb.pdf or by ordering a hardcopy from the Office of the Attorney General.

B. Voter Registration Provisions

1. Address Confidentiality

i. General Confidentiality Provisions

Section 13.004(c) – The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter [552](#), Government Code:

- (1) a social security number;
- (2) a Texas driver's license number;
- (3) a number of a personal identification card issued by the Department of Public Safety; or
- (4)-(8) other items identified below.

NOTE: Section 13.004(c-1) provides that the registrar shall ensure that the information listed in Subsection (c) is excluded from disclosure, except that the registrar shall forward to the county chair of each county executive committee the information necessary to contact applicants who indicate interest in working as an election judge.

ii. Address Confidentiality Program Administered by the Office of the Attorney General

Section 13.004(c)(7) – The early voting clerk may not disclose the name or any other information submitted on the application for a participant in the address confidentiality program and has provided the registrar with proof of certification under Article [58.059](#), Code of Criminal Procedure. A person who is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure, is not placed on the permanent registration list. Their temporary registration is not public information. The administrative rules related to this program are at 1 Tex. Admin. Code Sec. 81.38, Administration of Voter Registration Associated with Address Confidentiality Program.

NOTE: The voter's phone number is also confidential, Section 13.004(c)(8).

iii. **Judicial and Peace Officer Confidentiality**

Section 13.004(c)(4) – the residence address of the applicant, if the applicant is a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge, or the family member of a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge, the spouse of a peace officer as defined by Article [2.12](#), Code of Criminal Procedure, or an individual to whom Section [552.1175](#), Government Code, or Section [521.1211](#), Transportation Code, applies and the applicant: included an affidavit with their voter registration application or provided the registrar with an affidavit describing the applicant's status under this subdivision, or provided the registrar with a completed form approved by the Secretary of State. For purposes of this section, “family member” has the meaning assigned by Section [31.006](#), Finance Code.

NOTE: The voter’s phone number is also confidential, Section 13.004(c)(8).

iv. **Certain types of family violence victims**

Section 13.004(c)(5) – the residence address of the applicant, if the applicant, the applicant’s child, or another person in the applicant’s household is a victim of family violence as defined by Section [71.004](#), Family Code, who provided the registrar with: a copy of a protective order, a magistrate’s order for emergency protection, or other independent documentary evidence.

Section 13.004(c)(6) – the residence address of the applicant, if the applicant, the applicant’s child, or another person in the applicant’s household is a victim of sexual assault or abuse, stalking, or trafficking of persons who provided the registrar with: a copy of a protective order, a magistrate’s order for emergency protection, or other independent documentary evidence.

NOTE: The voter’s phone number is also confidential, Section 13.004(c)(8).

v. **Website Restrictions** (Section 13.004(d))

1. The voter registrar or other county official who has access to the information furnished on a registration application may not post the following information on a website:
 - (1) a telephone number;
 - (2) a social security number;
 - (3) a driver's license number or a number of a personal identification card;

- (4) a date of birth; or
- (5) the residence address of a voter who submits documentation under Subsection (c)(4), (5), (6), or (7) to the voter registrar or regarding whom the registrar has received notification under Section 15.0215.

2. Voter Registration Lists

- i. *Section 15.0215* – Upon receiving notice from the Office of Court Administration of the Texas Judicial System of a person’s qualification for office as a federal judge, including a federal bankruptcy judge, a marshal of the United States Marshals Service, a United States attorney, or a state judge and of the names of the judge’s or federal official’s family members, the registrar must omit from the registration list the residence address of the judge or official and any family members of the judge or official. Additionally, the registrar must prepare a memorandum of the substance and date of the notice from the Office of Court Administration and retain the memorandum on file with the application.
- ii. *Section 15.082* – The registrar must furnish a copy of the suspense list to any person requesting it or furnish that portion of the list requested. The list shall be provided in accordance with Chapter [552](#), Government Code.
- iii. *Section 15.084* – The Secretary of State must furnish a copy of a suspense list to anyone requesting it or furnish that portion of the list requested. The fee for each list or portion of a list must not exceed the actual expense in copying the list and must be uniform for each type of copy furnished. The copy must be furnished in the form in which the list is stored or, if practicable, in any other form requested.
- iv. *Section 15.085* – A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Sections 15.082 or 15.084.

NOTE: It is a common practice for the voter registrar’s staff to notify a requestor that commercial use of the suspense list is a criminal offense under the Election Code. Some offices request that the person sign a statement that he or she has been advised of the relevant section(s). However, when noting the potential criminal liability to the requestor, the custodian must NOT actually ask the requestor the purpose of the request. **Asking about the purpose of an information request is prohibited under Government Code, Section 552.222.**

- v. *Section 18.008* – The registrar must furnish a copy of any list prepared under Subchapter A, Chapter 18 of the Election Code to any person requesting it. The list must be furnished as soon as practicable, but no later than the 15th day after the date the registrar receives a request or completes preparation of the list from which the copy is to be made, whichever occurs later.
- vi. *Section 18.009* – A person commits an offense if the person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 18.008. See note above following Section 15.085 regarding notice of potential criminal liability for unlawful use of voter registration information.
- vii. *Section 18.010* – The registrar’s fee must not exceed the actual expense incurred in reproducing the list of registered voters. Fees must be used to defray actual expenses incurred in the preparation of the copy.
- viii. *Section 18.0121* – If a county contracts with a private business to produce a list of potentially ineligible voters, the list may not be made available to the public or otherwise used by the voter registrar until the contracting county’s voter registrar has verified the accuracy of the list by using public records.
- ix. *Section 18.066* – The Secretary of State must furnish information on the state master file to any person, on request, not later than 15 days after a request is received. The information may not include voters’ social security numbers or the residence address of a voter whose address is confidential under Section 13.004. The requestor must submit an affidavit stating that the person will not use information obtained from the Secretary of State in connection with advertising or promoting commercial products or services. The fee charged must not exceed the actual expense incurred in reproducing the information requested.
- x. *Section 18.067* – It is a criminal offense if a person uses information in connection with advertising or promoting commercial products or services that the person knows was obtained under Section 18.066. See note above following Section 15.085 regarding notice of potential criminal liability for unlawful use of voter registration information.

3. Exception for Peace Officers and Other Officials

Section 552.1175 of the Government Code relates to the request for confidentiality of personal information by certain law enforcement and other personnel. The information that must be safeguarded against disclosure

includes: home address, home telephone number, emergency contact information, date of birth, social security number, and any information that reveals whether the individual has family members. To the extent information covered by Section 552.1175 is provided on a list, this information should be restricted from voter registration lists.

C. Candidate Filings

Section 141.035 – An application for a place on the ballot is public information immediately upon filing. Applications for a place on the primary ballot are also considered public record. Tex. Att’y Gen. Op. No. MW-0175 (1980); *see also* Tex. Att’y Gen. Letter Op. No. 93-65 (1993).

NOTE: There have been recent court rulings recognizing that public citizens’ dates of birth are protected by common-law privacy under the Public Information Act. In addition, the Office of Attorney General has issued open records rulings concluding that these protections extend to dates of birth on candidate applications and other election records, with certain exceptions. Unless the OAG’s Open Records Division has issued a previous determination allowing a specific entity to redact dates of birth on candidate applications or other particular types of election records, the entity should obtain the requestor’s consent to redact dates of birth from an election record or seek an open records ruling from the OAG if a request extends to such information.

Section 552.1175 of the Government Code also provides that information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual covered by that section, or information that reveals whether the individual covered by Section 552.1175 has family members is confidential and may not be disclosed to the public if the covered individual chooses to restrict public access to the information and provides notice accompanied by evidence of the elected public officer’s status to the governmental body with access to the information. Section 552.1175 allows individuals covered by that section to withhold personal information contained in records maintained by any governmental body in any capacity. Elected public officers are covered under Section 552.1175(a)(17). However, several other categories of individuals are covered by the section and any individual covered by the section could choose to restrict public access to their information. An individual covered by Section 552.1175 must notify the governmental body of the choice to restrict public access to the information on a form provided by the governmental body accompanied by evidence of the individual’s status. To the extent information covered by Section 552.1175 appears on an elected public officer’s or other covered individual’s candidate application, this information should be redacted from applications provided in response to a public information request if the individual has chosen to restrict public access to the information and provided appropriate notice. An individual may opt to keep the information confidential after the governmental body receives a request for the information.

In Open Records Decision No. 678 (2003), the Attorney General determined that notice provided by an individual under Section 552.1175 to a governmental body “imparts confidentiality to information only in the possession of the notified governmental body.” Individuals must provide separate notification to any receiving governmental bodies if the information is transferred in order for the information to remain confidential.

As noted above, elected public officers are covered under Section 552.1175(a)(17). If an individual has been appointed to a public office and the individual is not otherwise covered under Section 552.1175 but chooses to restrict public access to his or her information and has notified the governmental body with the appropriate form, we recommend that the governmental body produce copies of the individual’s candidate application if requested with the covered information redacted and seek a ruling from the Attorney General on whether the individual is covered by Section 552.1175.

Section 141.036 – The authority with whom an application for a place on the ballot is required to be filed shall preserve each application filed with the authority for two years after the date of the election for which the application is made.

For questions concerning campaign finance filings, please contact the Texas Ethics Commission at 512-463-5800.

D. Pre-Election Day Records

1. Election Information

- i. *Section 4.009(a)* – Not later than the 21st day before election day, a county that holds or provides election services for an election and maintains an Internet website shall post on its public Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county the following information: (1) the date of the election; (2) the location of each polling place; (3) each candidate for an elected office on the ballot; and (4) each measure on the ballot.
- ii. *Section 4.009(b)* – Not later than the 21st day before election day, a city or independent school district that holds an election and maintains an Internet website shall post on the public Internet website for the city or independent school district the following information: (1) the date of the next election; (2) the location of each polling place; (3) each candidate for an elected office on the ballot; and (4) each measure on the ballot.
- iii. *Section 32.076* – An e-mail address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information. However, an e-mail address or personal phone number of an election judge or clerk shall be made available upon request to any entity eligible to submit lists of election judges or clerks for that election or the state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

E. Early Voting

1. Early Voting Records Generally

- i. *Section 87.124* – The early voting election returns, voted early voting ballots, and other early voting election records shall be preserved after the election in the same manner as the corresponding precinct election records (all election records must be preserved for at least 22 months from election day, even when there is no federal office on the ballot, Sec. 66.058).

2. Early Voting Rosters

- i. *Section 87.121(f)* – Information on the roster for a person to whom an early voting mail ballot has been sent, but not returned, is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after election day.
- ii. *Section 87.121(h)* – Information on the roster for a person whose marked mail ballot has been returned shall be made available for public inspection not later than 11 a.m. on the day following the day the early voting clerk receives the ballot voted by mail.
- iii. *Section 87.121(g)* – The early voting by personal appearance roster shall be made available for public inspection not later than 11 a.m. on the day after the date the information has been entered on the roster in accordance with Section 87.121(c), which provides that the roster shall be updated daily.
- iv. *Section 87.121(i)* - The information under Subsections (g) and (h) must be made available for an election in which the county clerk is the early voting clerk on the publicly accessible Internet website of the county; or if the county does not maintain a website, on the bulletin board used for posting notice of meetings of the commissioners court. For an election where the county clerk or elections administrator is not the early voting clerk, on the publicly accessible Internet website of the authority ordering the election; or if the authority ordering the election does not maintain a website, on the bulletin board used for posting notice of meetings of the governing body of the authority.
- v. *Section 87.121(j)* - In a primary election or the general election for state and county officers, the early voting clerk must submit to the Secretary of State for posting on the Secretary of State’s Internet website, in a downloadable format, early voting rosters described by Section 87.121(g) and (h).
- vi. *Section 87.121(o)* - A person registered to vote in the county where the early voting clerk is conducting early voting may submit a complaint to the Secretary of State stating that the early voting clerk has not complied with Section 87.121.
- vii. *Section 87.121(q)* – The Secretary of State shall maintain a record of early voting clerks who have failed to comply with the requirements of Section 87.121.

NOTE: In Tex. Att’y Gen. Op. No. DM-168 (1992), the Attorney General held that the early voting records are available under the Open Records Act (now the Public Information Act), subject to restrictions under law, such as the statutory delays applying to early voting by mail materials discussed above.

NOTE: A person using the Attorney General Address Confidentiality Program would not appear on the roster. Information contained in the Roster for Early Voting by Mail for Address Confidential Applicants is not subject to public disclosure under the Public Information Act. (1 Tex. Admin. Code Sec. 81.38(g)-(h)). For a person using confidentiality under Section 13.004 of the Election Code or Section 552.1175 of the Government Code, the voter’s name should appear on the early voting roster but there should be an asterisk (***) in place of their address.

3. **Corrective Action Process Rosters**

- i. Voters’ names entered on this roster are not eligible for public disclosure until after the voter has returned the corrected carrier envelope, canceled their mail ballot, or appeared in person to correct any necessary defects. (Sec. 87.121).
- ii. Emails sent or received through the corrective action process are considered election records under the Election Code, are subject to the Public Information Act, and should be retained by the general custodian of election records. The general custodian should consult with their attorney regarding any requests for such emails, as certain information may be exempt from disclosure under the Public Information Act.

4. **Applications to Vote by Mail**

- i. *Section 86.014* – A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the earliest occurring election for which the application is submitted. Subsection (b) provides that originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election.

NOTE: Even if an application for ballot by mail may be available for public inspection under Section 86.014, certain information contained in the application may be subject to an exception from public disclosure under the Public Information Act. See the above note regarding candidate filings. Please note that an application for ballot by mail now requires a voter’s personally identifiable information, including the number of a driver’s license or personal identification card issued by the Department of Public Safety or social security number, and that this information is confidential under the Public Information Act.

- ii. *Section 101.103* – An e-mail address used by a Federal Post Card Application (FPCA) voter to request balloting materials is confidential and does not constitute public information for purposes of Chapter 552 of the Government Code. An early voting clerk shall ensure that a voter’s provided e-mail address is excluded from public disclosure.

5. Location of Public Election Records

- i. *Section 81.004* – Election records for which the early voting clerk is custodian and that are public information shall be kept at the early voting clerk’s main business office for an election in which a county clerk or the city secretary is the early voting clerk. For any other election, these election records shall be kept at a location designated by the authority appointing the clerk.

F. Provisional Voting

1. *1 Tex. Admin. Code Section 81.176(c)(13)* – All Provisional Ballot Affidavit Envelopes and the List of Provisional Voters are public records after the early voting ballot board has completed its review and the Provisional Ballot Affidavit Envelopes and the List of Provisional Voters have been returned to the general custodian of election records.
2. *Section 65.0581* – Provisional voting records are not available for public inspection until the first business day after the date the early voting ballot board completes the verification and counting of provisional ballots and delivers the provisional ballots and other provisional voting records to the general custodian of election records.

G. Election Night, After the Election

1. *Section 65.016* – A county that holds or provides election services for an election and maintains an Internet website shall post on its public Internet website for an election of public officials or of a governmental entity authorized by law to impose a tax administered by the county the following information: (1) the results of each election; (2) the total number of votes cast; (3) the total number of votes cast for each candidate or for or against each measure; (4) the total number of votes cast by personal appearance on election day; (5) the total number of votes cast by personal appearance or mail during the early voting period; and (6) the total number of counted and uncounted provisional ballots cast. The information must be posted as soon as practicable after the election and must be accessible without having to make more than two selections or view more than two network locations after accessing the Internet website home page of the county.
2. *Section 65.016* – A city or independent school district that holds an election and maintains an Internet website shall post on the public Internet website for the city or independent school district the following information: (1) the results of each election; (2) the total number of votes cast; (3) the total number of votes cast for each candidate or for or against each measure; (4) the total number of votes cast by personal appearance on election day; (5) the total

number of votes cast by personal appearance or mail during the early voting period; and (6) the total number of counted and uncounted provisional ballots cast. The information must be posted as soon as practicable after the election and must be accessible without having to make more than two selections or view more than two network locations after accessing the Internet website home page of the city or district, as applicable.

3. *Section 65.060* – A social security number, Texas driver’s license number, or number of a personal identification card issued by the Department of Public Safety furnished on a provisional ballot affidavit is confidential and does not constitute public information for purposes of Chapter 552, Government Code. The general custodian of election records shall ensure that a social security number, Texas driver’s license number, or number of a personal identification card issued by the Department of Public Safety is excluded from disclosure.
4. *Section 66.056* – The general custodian shall prepare an unofficial tabulation on election night and shall periodically make a public announcement of the state of the tabulation. The unofficial tabulation shall be preserved for the period for preserving precinct election records (22 months, Sec. 66.058).
5. *Section 66.057* – The election records for a particular precinct do not become public information until the custodian completes the unofficial tabulation of the results. The general custodian or his agent shall be present at all times when the records delivered in ballot box number 4 are inspected. The election records in envelope number 3 become public information when delivery of the precinct election records is completed.
6. *Section 66.0021* – Requires the general custodian of election records for a primary election or general election for state and county officers to maintain a list that states the total number of votes cast in each precinct on election day. This list must be available for public inspection not later than the day after election day. This information shall be submitted to the Secretary of State and posted in a downloadable format on the Secretary of State’s Internet website.
7. *Section 66.058* – Preservation of Precinct Election Records: Precinct election records shall be preserved by the authority to whom they are distributed for at least 22 months after election day. The voted ballots shall be secured in a locked box in a locked room for at least 60 days after election day, and thereafter may be transferred to a separate container for the remainder of the preservation period. It is a Class A misdemeanor to make an unauthorized entry into the box. The records in ballot box number 4 may be preserved by any method chosen by the custodian.

Precinct election records in an election involving a federal office shall be preserved by the authority to whom they are distributed for at least 22 months in accordance with federal law (42 U.S.C. § 1974).

8. *Section 127.1232* – The general custodian of election records in a county with a population of 100,000 or more shall implement a video surveillance system that retains a record of all areas containing voted ballots from the time the voted ballots are delivered to the central counting station until the canvass of precinct election returns; and from the time the voted ballots are delivered to the signature verification committee or early voting ballot board until the canvass of precinct election returns. The video recorded is an election record under Section 1.012 and shall be retained by the general custodian of election records until the end of the calendar year in which an election is held or until an election contest filed in the county has been resolved, whichever is later.
9. *Section 127.131* – The presiding judge of the central counting station shall provide and attest to a written reconciliation of votes and voters at the close of tabulation for election day and again after the central counting station meets for the last time to process late-arriving ballots by mail and provisional ballots. The reconciliation forms must be posted on a website maintained with the county along with election returns and results. We recommend that local entities post the reconciliation form on their website, if the entity maintains a website. We further recommend that the reconciliation forms remain posted at least until the next election, and that the forms are available for the full 22 month retention period for election records. An entity may choose to make older reconciliation forms available as part of historical results on their website.

H. Voting Systems Information

1. *Section 121.004* – A written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor is not confidential and is public information for purposes of Chapter 552 of the Government Code and is not subject to an exception to disclosure (other than Sections 552.110 and 552.1101, Government Code), unless the communication discloses information, data, or records relating to the security of elections critical infrastructure.
2. *Section 123.008* – A person who sells, leases, or otherwise provides an electronic voting system or equipment to a political subdivision shall also provide any user or operator manuals or other instructions or documents relating to the use of the system or equipment. The general custodian of election records for the political subdivision shall make those materials and any similar materials produced by the political subdivision for its elections available for public inspection in the custodian’s office on the request of any person.

I. Public Inspection of Anonymous Voted Ballots

1. In Tex. Att’y Gen. Op. No. KP-0411 (2022), the Attorney General opined that members of the public and legislators may inspect or obtain copies of anonymous voted ballots during the 22-month preservation period. Section 1.012 of the Code, as amended by House Bill 5180 (88th Leg., R.S., 2023), provides that original voted ballots must be made available for public inspection beginning on the 61st day after election day. The Secretary of State recommends

the following procedures for providing public access to anonymous voted ballots:

- i. The general custodian of election records should establish a written policy that specifies procedures for providing access to anonymous voted ballots through public inspection. This written policy should reflect “procedures as authorized by law to accomplish the dual priorities of ballot preservation and public access to anonymous voted ballots under the Election Code.” (Tex. Att’y Gen. Op. No. KP-0411, p. 5).
- ii. The general custodian’s policy should, at a minimum, include the following provisions:
 1. A defined time period for public inspection consistent with the Public Information Act.
 2. A log of all individuals accessing the anonymous voted ballots during the defined time period.
 3. General regulations regarding access to the ballots, including the following protocols:
 - a. At least one member of the general custodian’s staff must be present at all times in the room containing the voted ballots while public inspection is taking place.
 - b. Pens, pencils, and other marking devices are prohibited in the room containing the voted ballots.
 - c. Food and beverages are prohibited in the room containing the voted ballots.
 - d. Voted ballots must be kept in the same stacks, containers, or boxes, whichever is applicable, while public inspection is taking place.
 - e. Voted ballots may not be removed from the room in which public inspection is taking place.
 - f. Imaging devices may be used to take photos or make copies of the voted ballots.
 4. If video surveillance is available, the Secretary of State recommends that the surveillance system be utilized to monitor all activities in the inspection room during the time that the ballots are made available for public inspection.
 5. In the space where public access to the anonymous voted ballots will be provided, all other materials unrelated to the ballot request should be removed from that location.

J. Public Inspection of Ballot Images and Cast Vote Records

1. *Section 1.012* – Images of voted ballots or cast vote records must be made available for public inspection beginning on the first day after the final canvass of an election is completed.
2. The general custodian of election records must adopt procedures to ensure the redaction of any personally identifiable information of the voter contained on an original ballot, ballot image, or cast vote record before making those records available for public inspection.

K. Records Retention and Management of Anonymous Voted Ballots

1. Voted ballots containing personally identifiable information that could tie a voter's identity to their voting selections must be redacted before allowing public access to the ballots. As Opinion No. KP-0411 recognizes, "such information must be preserved, and the custodian of election records must redact such personally identifiable information to protect the constitutional right to a secret ballot in Texas." (Tex. Att'y Gen. Op. No. KP-0411, p. 4).
2. Voted paper ballots are the official ballot of record for recounts and election contests.
3. If a county has maintained an electronic copy (e.g., ballot image, cast vote record) in addition to the voted paper ballot, copies of the electronic records should be made available upon request just as paper ballots are made available.
4. If anonymous voted ballots have not already been scanned or imaged, they may be imaged prior to public inspection to ensure that there is a record of the image prior to public inspection.
5. If files are provided in any electronic format, the Secretary of State strongly recommends that a hash value be calculated to validate the integrity of the files and to ensure they are not altered in any way.
6. At the conclusion of the retention period, contents of locked ballot boxes or secure containers may only be destroyed if there is no election contest, criminal investigation, or pending public information request that has yet to be fulfilled. (Secs. 1.012, 66.058). The county attorney, district attorney, and any county records management officers should be consulted before disposing of materials after the 22-month retention period.

II. Federal Privacy Act of 1974

The Federal Privacy Act of 1974 (5 U.S.C. § 552a) provides that any federal, state, or local governmental agency which requests an individual to disclose his or her social security number shall inform that individual whether the request for disclosure is mandatory or optional, by what statutory or other authority the social security number is solicited, and what use will be made of it.

III. Sources, Opinions, Advice

The Texas Attorney General is granted authority under the Public Information Act to render rulings on open records matters, which are issued as open records decisions ("ORDs") or open records letter rulings ("ORLs"). The timeline of 10 business days for requesting a ruling under certain statutory provisions refers to these written decisions. The Attorney General's office also maintains an open government telephone hotline for informal verbal advice on open records questions.

The Office of the Secretary of State, Elections Division, has authority to interpret state laws applying to elections. Although our office's advice does not suffice when the situation calls for an ORD, we can help to provide answers on well-settled questions of public information law and suggest practical applications to various election records within those laws. The

State Library and Archives Commission specializes in the law governing proper maintenance and destruction schedules of public records.

IV. Contact Information

Secretary of State, Elections Division: (800) 252-8683
<https://www.sos.state.tx.us/elections/contact.shtml>

Texas Attorney General Open Government Hotline: (512) 478-6736 or (877) 673-6839
Texas Attorney General Cost Hotline: (512) 475-2497
For copies of AG publications, including handbooks: (512) 936-1730
<https://www.texasattorneygeneral.gov/open-government>

State Library and Archives Commission
Records Management Assistance: (512) 463-7610
<https://www.tsl.texas.gov/contact>

V. References

- Tex. Att’y Gen. Open Records Decision No. 467 (1987) (reasonable time standard)
- Tex. Att’y Gen. Open Records Decision No. 622 (1994) (Social Security number, new federal law affects state laws enacted after October 1, 1990); *see also* Tex. Att’y Gen. Open Records Decision No. 674 (2001)
- Tex. Att’y Gen. Open Records Decision No. 678 (2003) (request by law enforcement personnel for confidentiality of certain personal information)
- Tex. Att’y Gen. Op. No. MW-0175 (1980); *see also* Tex. Att’y Gen. Letter Op. No. 93-65 (1993) (applications for primary ballot are public record)
- Tex. Sec’y of State Op. No. JWF-24 (1984) (copying phone, social security, driver’s license numbers)
- Tex. Att’y Gen. Op. No. DM-168 (1992) (availability of early voting list to open records request)
- Tex. Att’y Gen. Op. No. KP-0411 (2022) (right to inspect or obtain copies of anonymous voted ballots during the 22-month preservation period)