

Guidelines for effective handing of voting complaints

At election time, numerous complaints will be received from voters, volunteers, and party officials. The purpose of this memorandum is to provide some guidance on how to handle these complaints. It is important that this memo be read and understood as soon as it is received so that any questions you may have can be resolved PRIOR to the beginning of voting.

Most of these guidelines refer to problems that arise at the polls. The county's early voting ballot board determines which mail ballots and provisional ballots can be legally accepted and counted. If you have any concern regarding these matters, make sure you learn the relevant law and appoint a strong poll watcher to the ballot board and signature verification committee (if applicable).

If you are concerned about irregularities occurring at any polling location or counting station, you should appoint a poll watcher. If you have any questions about these guidelines, please contact Sondra Haltom at 512-478-9800.

- **Prioritize**: Complaints will range from the trivial to the serious. If a voter calls in and says they aren't sure they voted correctly or they were unable to verify that their vote on a machine was recorded accurately, there is little that can be done in such an instance. A voter or volunteer who calls in, however, and says that they attempted to vote a straight Democratic ticket but the voting machine instead displayed a straight Republican ticket (so-called calibration problems) is a far more serious matter and requires immediate attention. Similarly, being informed that voters are being turned away without the right to cast a provisional ballot, or voters are being denied the right to receive assistance from a person of their choice, are very important matters and require prompt action.
- **Verify Problems**: By the time a complaint gets to you, it may be several steps removed. If at all possible, try and talk directly to the eyewitness rather than rely on someone who heard about the problem second-hand. It will be extremely important when it comes to trying to resolve complaints with local officials if you have the actual set of facts rather than a second- or third-hand account, which may contain inaccuracies and cause you to lose credibility with state or local officials.
- **Document Problems**: For each complaint that is received, it is important to record as much factual information as possible about the incident. Attached is a sample incident report that can be used to record problems. As noted above, first-hand information is best. If the incident happened to a voter, try to speak to the voter him/herself. If it happened to a poll worker, try and talk to the poll worker. Also, record names and phone numbers of all contacts whenever possible. More detail is always better than less. Determine whether or not the person has already spoken with someone else about the incident. Oftentimes, people will call multiple entities (the TDP, the County Party, the County Clerk, the SOS, etc.) to lodge a complaint. See if someone else is already dealing with the problem so as to conserve resources and avoid duplication of effort.
- **Common Problems**:
 1. **"The machine stole my vote"** – This is usually a case where the voter is using a touch screen DRE to vote and the machine is improperly calibrated. The most important thing to be able to do anything about this problem is to figure out exactly which machine it is. If the voter can identify the number of the machine, or can at least give the position of the machine inside the polling location, it may be possible to get the machine pulled out of service until it can be tested and fixed (sec. 125.006).

If the voter can not identify the specific machine, one option is to have the County Party or a local candidate send in voters to the same polling location (only those who are eligible to vote there, of course) and see if the machine they use has the same problem.

Another option is to get the County Party or a local candidate to send in a poll watcher to observe the voting and record the machine number if it happens again. There is not much that can be done about this problem unless we can identify specific machines that are malfunctioning, other than document the problem.

2. **“I was required to show picture id”** – Voters are NOT required to present photo identification (See TDP 08 Polling Place and Election Law Guidelines). If voters are being asked to do this, try to ascertain who told them it was required.

If a presiding judge, alternate judge, or election clerk told them photo id was required, try to get a name. Then alert the County Party, if possible, and let them take the lead in alerting the Elections Administrator, or alert the Elections Administrator yourself and ask them to remind their workers about the appropriate id requirements.

3. **“They couldn’t find me on the list”** – There are several different possibilities here. See TDP 08 Polling Place and Election Law Guidelines for information on how to deal with each. Again, try to get as much information as possible about WHY the voter may not be on the list. Often, if pressed, voters will let you know that there is a very good reason they are not on the list, such as not having registered in time or being in the wrong precinct/county.

- **Taking Action. If the incident reported appears serious and requires further action, determine the appropriate course of action to take.** You should have the contact information available for all entities below in case you need to do the following:
 - Contact County Chair
 - Contact County Elections Administrator
 - Contact SOS
 - Take legal action
- **How To Determine Which Course Of Action To Take.** Most incidents can be handled at the local level. In all cases, unless a dire emergency, an effort should be made to let the County Party know of the incident and give them the opportunity to take care of it. Often, they have knowledge of local politics that may underlie the complaint, as well as relationships with local elections officials that can be used to redress the problem quickly and amicably. If County Party officials are unwilling or unable to resolve the complaint themselves, the TDP and our representatives may need to address the problem directly. Depending on which County/District the complaint has arisen from, there may be local candidates whose campaigns may also need to be contacted. Some of these campaigns may want to take the lead in dealing with problems in their district, and that usually works best.

If the problem occurs at a specific polling location in a County, it may be possible to handle the complaint by contacting the local Elections Administrator. Complaints involving malfunctioning voting machines, or election judges or clerks acting improperly, should be directed to the County Elections Administrator. Often a request for action from their office is enough to get the problem solved. However, if the Elections Administrator refuses to solve the problem, or worse, IS the problem, it may be necessary to ask the Secretary of State’s office to get involved.

If it is necessary to get the SOS involved, please refer the incident to the TDP so that we can serve as the primary point of contact with that office. Having a primary point of contact helps ensure that we are not making redundant requests of their office, and that we are not giving or receiving conflicting information.

Legal Action May Be Needed If legal action becomes necessary, please contact the TDP so that our legal counsel can contact you and assist. For example, polls may open late and it may be necessary to go to court and obtain a court order extending the hours that the polls will be open. We have sample pleadings and other legal documents that can easily be used to facilitate court action when necessary. Litigation is usually a last resort, but is sometimes necessary.

Maintain Your Records for Future Use. In all cases, please document the name and phone number of the person with whom you spoke regarding an incident, and the resolution of the complaint, if known. We will want to keep a record of all incidents for future use. When the election is over, please send either the original or a copy of your incident reports to the Texas Democratic Party. We have created a centralized data base recording all incidents and their disposition for use in any post-election litigation or in connection with future elections.

Note: Candidates and Party Officials Should Contact Local Election Officials before the polls open for Early Voting. Meet with local election officials to review proper procedures and the instructions provided election judges and clerks to address any potential problems and concerns ahead of time and avoid confusion and disruption that could turn away voters.