

South Dakota Provisional Ballot Processing Criteria for City Finance Officers or School Business Managers January 31, 2018

The processing and counting of provisional ballots is covered in SDCL 12-20-5.1 and 12-20-13.1 through 13.4.

Following Election Day, the Finance Officer or Business Manager is responsible for determining whether or not a provisional ballot meets the legal requirements to be counted. Work with your county auditor to make a determination.

To be counted, a provisional ballot must meet the following conditions:

1. The voter had fully completed a voter registration form which was in the possession of a voter registration official listed in SDCL 12-4-2 by 5:00pm on the voter registration deadline (SDCL 12-4-5); and
2. The residence address on the voter registration form is located in the precinct in which the provisional ballot was cast (SDCL 12-20-5.1); and
3. The voter is eligible to be a registered voter in that precinct (SDCL 12-1-4, 12-3-1, Art. VII § 2); and
4. The voter did not submit an absentee ballot by 7:00pm on election day (SDCL 12-26-8).
5. If the provisional ballot was voted because the voter's identity could not be "proven to the satisfaction of the member of the precinct election board or if the person making an application for ballots is challenged on the basis of identity" (SDCL 12-18-6.3), then the voter's identity would also have to be confirmed as being that of the registered voter. This situation would occur if the provisional ballot was voted per box #36 or #38 on the *South Dakota Polling Place Voter Key*.
6. The provisional ballot will not be counted if the voter's name was correctly removed from the precinct registration list in the precinct where the provisional ballot was voted because:
 - a. The voter had cancelled their registration in that precinct (SDCL 12-4-12); or
 - b. The voter had a disqualifying felony sentence (SDCL 12-4-18); or
 - c. The voter received a mental incompetence declaration (SDCL 12-4-18); or
 - d. The voter was deceased (SDCL 12-4-18); or
 - e. It was a duplicate registration (SDCL 12-4-40); or
 - f. Non-voting following a confirmation mailing (SDCL 12-4-19.4).

If you have provisional ballots that you determined should be counted, you will appoint a provisional ballot counting board or a resolution board and tabulator operators and the board will meet one hour prior to your canvassing board meeting but an alternate time can be set if the provisional counting board will need more time to count them. If it is determined to count those ballots by hand you will appoint a provisional ballot counting board. If it is determined to use the tabulator to count the ballots you will appoint a resolution board.

You are required to send a notice within ten days after the official county canvass to each provisional voter to advising whether the provisional ballot was counted. (SDCL 12-20-13.1 through 13-4)

