2026 ELECTION
GUIDE

THE PROVISIONAL JUDGE

The Provisional Judge
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Disclaimer: *This guide does not cover all election duties and responsibilities. Election Administrators and Election Judges are obligated to follow Montana law.*

The Provisional Judge

There are few roles as critical to our democracy as the job of an election judge. On election day, a citizen's right to cast a ballot and have the vote count rests in the hands of the election judge.

The Provisional Judge is responsible for assisting electors who are required to vote a provisional ballot because they do not meet the eligibility requirements to vote a regular ballot.

Casting a Provisional Ballot

No one should be turned away from the polls without having the opportunity to vote. Casting a provisional ballot allows the elector the opportunity to vote when there is an ID or other eligibility verification that can be remedied by the requirement deadline.

There are several reasons an elector will cast a provisional ballot:
- The elector appears in the precinct register as having been issued an absentee ballot, but stated the absentee ballot was not received or was spoiled, lost, or destroyed.
- The elector late registers on the day of the election in another county.
- The precinct register indicates elector is provisionally registered, which could not be resolved.
- The elector stated they registered to vote with the Motor Vehicle Division or other government agency, which could not be confirmed.
- The elector's identification or registration information was incorrect or insufficient.
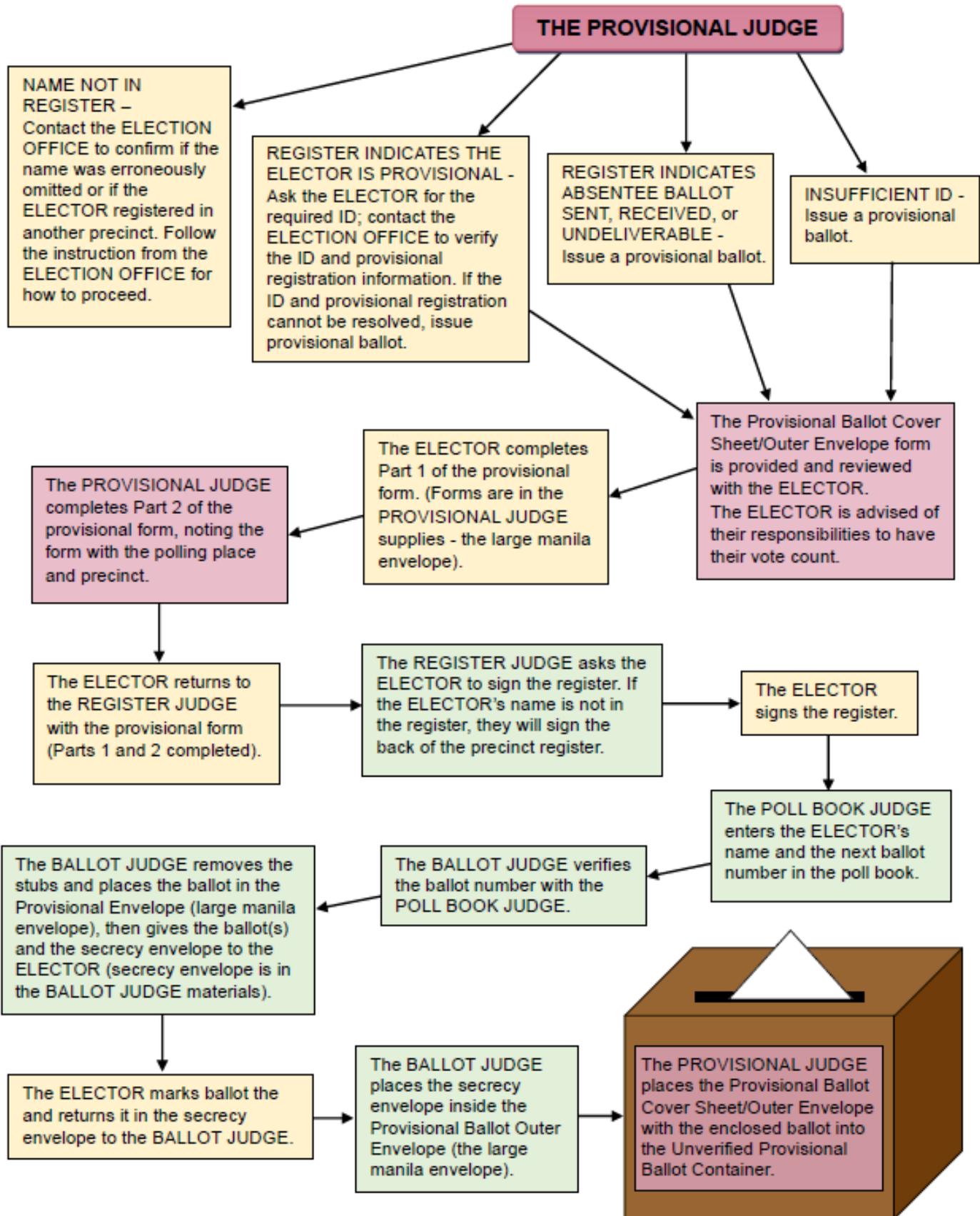- The elector's right to vote was challenged.

  📍See "*The elector has been challenged*", page 4, for guidance*.*

- The individual's name is not in the precinct register.

  📍See "*The elector was omitted from the register in error*", page 6, for guidance*.*

PROVISIONAL VOTING FLOW CHART

THE PROVISIONAL JUDGE

NAME NOT IN REGISTER – Contact the ELECTION OFFICE to confirm if the name was erroneously omitted or if the ELECTOR registered in another precinct. Follow the instruction from the ELECTION OFFICE for how to proceed.

REGISTER INDICATES THE ELECTOR IS PROVISIONAL - Ask the ELECTOR for the required ID; contact the ELECTION OFFICE to verify the ID and provisional registration information. If the ID and provisional registration cannot be resolved, issue provisional ballot.

REGISTER INDICATES ABSENTEE BALLOT SENT, RECEIVED, or UNDELIVERABLE - Issue a provisional ballot.

INSUFFICIENT ID - Issue a provisional ballot.

The Provisional Ballot Cover Sheet/Outer Envelope form is provided and reviewed with the ELECTOR. The ELECTOR is advised of their responsibilities to have their vote count.

The ELECTOR completes Part 1 of the provisional form. (Forms are in the PROVISIONAL JUDGE supplies - the large manila envelope).

The PROVISIONAL JUDGE completes Part 2 of the provisional form, noting the form with the polling place and precinct.

The ELECTOR returns to the REGISTER JUDGE with the provisional form (Parts 1 and 2 completed).

The REGISTER JUDGE asks the ELECTOR to sign the register. If the ELECTOR's name is not in the register, they will sign the back of the precinct register.

The ELECTOR signs the register.

The POLL BOOK JUDGE enters the ELECTOR's name and the next ballot number in the poll book.

The BALLOT JUDGE removes the stubs and places the ballot in the Provisional Envelope (large manila envelope), then gives the ballot(s) and the secrecy envelope to the ELECTOR (secrecy envelope is in the BALLOT JUDGE materials).

The BALLOT JUDGE verifies the ballot number with the POLL BOOK JUDGE.

The ELECTOR marks ballot the and returns it in the secrecy envelope to the BALLOT JUDGE.

The BALLOT JUDGE places the secrecy envelope inside the Provisional Ballot Outer Envelope (the large manila envelope).

The PROVISIONAL JUDGE places the Provisional Ballot Cover Sheet/Outer Envelope with the enclosed ballot into the Unverified Provisional Ballot Container.

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The elector has been issued an absentee ballot:

If the elector requested an absentee ballot and wants to vote at the polling place because they did not receive, spoiled, lost, or destroyed the issued absentee ballot, the elector must complete the *Provisional Ballot Cover Sheet/Outer Envelope* and mark a **provisional ballot**.

- Provide the elector with the P*rovisional Ballot Instructions*, outlining their responsibilities to have their provisional ballot counted.

Under normal circumstances, the Election Administrator will count the provisional ballot unless it is determined the elector has already voted by previously submitting their absentee ballot.

Provisionally register electors:

If a provisionally registered elector provides the required identification or other missing information and this is verified by the Election Administrator, the elector may vote a **regular ballot**.

If a provisionally registered elector does not provide the required identification or the other missing information cannot be verified by the Election Administrator, the elector may vote a **provisional ballot**.

⚠️ *Note: Inform the elector the **provisional ballot** will be counted if the elector provides verifiable ID and any applicable missing registration information to the election office by 5 pm the day following the election.*

The elector has been challenged:

Any registered elector may challenge another elector's right to vote by submitting an affidavit of challenge.

If an elector was challenged by another elector and the challenge was not resolved, the challenged elector should complete the **provisional ballot** form and be provided the instructions detailing the elector's responsibility to have their ballot counted.

If an elector has been challenged and the challenge was resolved, the elector may vote a **regular ballot**.

🔸 *Reminder!* *If the challenge is based on residency, an elector may vote one last time based on their former address. The voter must complete a voter registration form with their new address.*

An elector's right to vote may be challenged at any time by any registered elector. The challenger must complete and sign an affidavit stating the grounds of the challenge and provide any evidence supporting the challenge to the Election Administrator or, on election day, to an election judge. (13-13-301, MCA)

If the challenge at issue **is** resolved in the challenged elector's favor before the time the elector is issued a ballot, the elector is no longer a challenged elector and may vote a **regular ballot**.

If a challenge **is not** resolved, "...*after the close of registration, the Election Administrator, or on election day, either the Election Administrator or an election judge shall allow the challenged elector to cast a* **provisional paper ballot***, which must be handled as provided in* 13-15-107, MCA." (13-13-301(3)(b), MCA)

A change of address itself is not sufficient grounds to successfully challenge an elector's right to vote. An elector may confirm their address before receiving a ballot. When an elector goes to the polls and their name appears on the precinct register, the challenge is resolved in favor of the elector and the elector votes a **regular ballot**.

Late registrants indicate their voting address at the time of registration and are placed in the correct precinct. The challenge is resolved in favor of the elector, and they vote a **regular ballot**.

Process for handling challenges at the polling place:

A challenge at the polling place must be:

- in the form of an affidavit (see the Affidavit of Individual Challenging an Elector, 13-13-301(1), MCA); **and**

- made by a registered Montana elector. (13-13-301(4)(a), MCA)

Once a challenge is made at the polling place, the challenged elector must complete the "Affidavit of Challenged Elector." If the challenged elector provides a current address that conforms to the registration address on record, they should sign the register and be issued a **regular ballot**. Otherwise, the elector may vote a **provisional ballot**.

A challenge must fail if the only basis of the challenge is a change of address unless the elector confirms the change of address in writing.

⚠️ *Reminder!* *The elector may vote one last time based on their former address.*

Th elector does not have ID:

If the elector is unable to provide identification, including an acceptable alternative form of identification, the elector may vote a **provisional ballot**.

⚠️ *Note:* *Inform the elector the provisional ballot will be counted if the elector provides verifiable ID and any applicable missing registration information to the election office by 5 pm the day following the election.*

The elector was omitted from the register in error:

An individual whose name is erroneously omitted from a precinct register or other election register may obtain from the Election Administrator a certificate of the error, stating the precinct in which the individual is entitled to vote. The individual may then present the certificate entitling them to vote a **regular ballot** to the election judges.

- The election judges must mark "voted" on the certificate and return it to the Election Administrator with the precinct register.

- The individual will sign the back of the precinct register or a location specified by the Election Administrator.

If the individual is unable to secure a certificate of erroneous omission from the Election Administrator, but the Chief Election Judge is able to confirm the erroneous omission by contacting the election office, the individual may vote a **regular ballot** by signing the elector's oath attesting their name was erroneously omitted.

If the Election Administrator cannot confirm the individual's name was mistakenly omitted, the individual may vote a **provisional ballot**. The individual must complete the Provisional Ballot Outer Envelope and be provided the written instructions detailing their responsibilities to have their ballot counted.

⚠️ *Note: If the elector chooses to not vote a provisional ballot, they may go to the county election office or designated location to resolve the omission.*

Provisional ballot voting procedure:

Once the elector has received the instructions and completed the Provisional Ballot form, they will return to the Register Judge and sign the register. If their name is not in the register, they will sign the back of the register, or a location specified by the Election Administrator.

The Ballot Judge will instruct the elector how to mark their ballot and then remove the stub(s) from the ballot(s) and place them inside the Provisional Ballot Outer Envelope. When the elector returns with the voted ballot (and unvoted other party ballot(s) in a primary election), the elector will place the secrecy envelope in the Provisional Ballot Outer Envelope with the stub(s) and seal the provisional envelope. The Ballot Judge will then place the Provisional Ballot Outer Envelope in the Unverified Provisional Ballot Container.

Resolving the provisional ballot:

If the elector returns to the polling place on election day and resolves the issue that led to their ballot being voted provisionally, an election judge will:

- retrieve the envelope from the Unverified Provisional Ballot Container;
- instruct the elector to remove the ballot from the secrecy envelope and place it in a secrecy sleeve to be placed in the ballot box, and
- update the polling place register to ensure the elector receives voter credit.

Provisional Ballot Cover Sheet/Outer Envelope Sample

Provisional Ballot Cover Sheet/Outer Envelope

This envelope is to be filled out at the polling place or election office by the election judge/official and the elector and provided to the election administrator with polling place materials.

SECTION 1: ELECTOR INFORMATION

Printed Name: _____ Former Name (if applicable): _____

[Monta]na Driver's License Number or State ID number: _____

[Al]ternate form of acceptable ID provided in lieu of Montana Driver's License/State ID: _____

_____ Phone Number(s): _____

[Addres]s/city/zip): _____

[Anything, if an]y, regarding your voter registration that would help resolve the provisional ballot: _____

_____

_____

[I swear that I am] eligible to vote in this election and precinct, all the information I provided on this form is true to the best of [my knowledge and] belief, and I am aware of the penalty for false swearing.

Elector signature: _____ Date: _____

SECTION 2: ELECTION JUDGE/OFFICIAL Precinct/Ward/District Name/Number: _____

Elector was instructed to cast a provisional ballot for the following reasons: *(check all that apply)*

☐ Name not in official register and not erroneously omitted
☐ Elector claims registration with Motor Vehicle Division or government agency, which could not be confirmed
☐ Elector failed to sign register
☐ Elector failed to sign absentee ballot envelope
☐ Elector's absentee signature was not verified
☐ Elector's right to vote was challenged

☐ Register indicates provisionally registered, which could not b[e]
☐ Elector affirmed absentee ballot was not received, or was sp[oiled]
☐ Elector's identification was insufficient
☐ County-to-county late registration in election office due to a[...]
☐ Precinct-to-precinct late registration in election office
☐ Other: _____

Election Judge/Official Signature: _____ Date: _____

SECTION 3: PROVISIONAL BALLOT RESOLUTION INFORMATION

Elector registered in Precinct/Ward/District Name/# _____ Voted in Precinct/Ward/Dist[...]
Voter ID# _____

[Provisi]onal Ballot Accepted: Yes ☐ No ☐

Reasons Ballot Accepted: *(circle all that apply)*	Reasons Ballot Was Rejected: *(circle all that apply)*
[Delete]d from register in error	Not registered (circle, if applicable): canceled/wrong precinct, district, ward/ wrong county
[Motor Vehicle] Division or other government agency error	Motor Vehicle Division or other government agency has no record of registration
[Provid]ed signature	Elector did not provide signature
[Signed] absentee ballot envelope	Elector did not sign absentee ballot envelope
[Abse]ntee signature was verified	Elector's absentee signature was not verified
[Challenge res]olved in challenged elector's favor	Challenge resolved in challenger's favor
[Provisional re]gistration was resolved	Provisional registration was not resolved
Absentee ballot was not received	Absentee ballot received and accepted
Elector provided sufficient identification	Elector never provided sufficient identification
Confirmed county-to-county late registrant did not vote in prior county	Confirmed county-to-county late registrant voted in prior county
Confirmed precinct-to-precinct late registrant did not vote in prior precinct	Confirmed precinct-to-precinct late registrant voted in prior precinct
Other:	Other:

Processed by _____ Date processed for resolution: _____ Date voter notified: _____

The Provisional Judge assists the elector in completing the top section of this form, making sure the elector signs where indicated.

The Provisional Judge completes Section 2, signs and gives the form to the elector to take back to the Register Judge.

Section 3 is completed by the election official when resolved.