

**From:** Nussmeyer, Angela M  
**Sent:** Tuesday, October 6, 2020 4:29 PM  
**To:** Nussmeyer, Angela M; King, Brad  
**Cc:** Warycha, Valerie S; Kochevar, Matthew R  
**Subject:** PLEASE READ: Absentee By Mail "Surrender" & Line Management  
**Importance:** High

Fellow Election Administrators,

The Indiana Supreme Court has ruled that the Indiana Election Division cannot take any official action or express the opinion of the office without the agreement of both the Democratic and Republican Co-Director. The following statement reflects agreement between Brad and Angie on these questions to the extent they are addressed below.

As we kick-off early voting, many of you have contacted our office asking how to manage voters who requested an absentee-by-mail ballot that come into the office requesting to vote in person at an "early" voting location and how to manage lines that may be present when your in-person or "early" voting sites and election day polling places close. Below are the Indiana state laws to inform your county election board's decision making:

#### **BEFORE ELECTION DAY**

If you have a voter who changed their mind and now wants to vote in person, they may request a replacement absentee ballot and vote in-person if their original absentee ballot by mail is lost, spoiled or defective (IC 3-11-4-17.7). The voter will need to fill out an ABS-5, and the county can reissue the ballot by mail or during in-person absentee voting now that it has begun. State law does not require the original absentee ballot to be returned to the CEB if the ABS-5 process is followed; instead, the voter should destroy the original ballot if they have not done so already.

State law does not allow a voter who received an absentee-by-mail ballot to vote absentee in-person because they changed their mind. The absentee ballot must be lost, spoiled or defective and the ABS-5 form executed before an absentee ballot can be reissued.

#### **ON ELECTION DAY**

On election day, IC 3-11.5-4-18 allows a voter to surrender their absentee ballot and vote in person. The voter will need to surrender their absentee ballot to the inspector and the inspector must mark the ballot "canceled" and preserve it with the rejected ballots, per IC 3-11.5-4-18.

If the voter has not received their absentee-by-mail ballot by Election Day, the voter has to complete the PRE-5 and then can vote a regular ballot, if otherwise qualified.

#### **LINES DURING IN-PERSON ABSENTEE VOTING & ON ELECTION DAY**

Absentee voters waiting to vote during in-person absentee voting are permitted to vote if they are in line after the office closes for the day. County officials are to either write down the voters' names, mark their hands, or designate a staff person to wait at the end of the line. (IC

3-11-10-29.2) On Election Day, any person waiting to check in with the clerks by the time the polls close, even if that line extends beyond the chute, are permitted to vote a regular ballot, if otherwise qualified. Poll workers are to either write down the voters' names, mark their hands, or designate a poll worker to stand at the end of the line. (IC 3-11-8-11)

Best wishes as you kick-off in-person voting today. We appreciate all of your hard work and if we can be of assistance, please don't hesitate to reach out.

Thanks,  
Angie & Brad