

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse, Charleston, West Virginia, thereof, on the 21st day of April, 2020, the following Order was made and entered:

SUBJECT: Rules for the Board of Canvassers to be Observed for the June 9, 2020, Primary Election

The following motion was offered by W. Kent Carper, Commissioner:

The County Commission of Kanawha County, West Virginia, does hereby adopt the following General Rules for the Board of Canvassers to be observed for the June 9, 2020, Primary Election:

1. The Canvass will be conducted at the Voter's Registration Office and will commence on Monday, June 15, 2020, starting at 7:00 a.m. and will be conducted each day until the conclusion of all canvass procedures, excepting Saturday, Sunday and holidays. The hours will be from 7:00 a.m. until continued or adjourned by the Board of Canvassers. The Canvass will be open to all candidates on the ballot, their representatives, the press and the public. Courtroom decorum shall be maintained at all times. There will be seating available for all observers. At least one (1) off-duty Kanawha County Deputy Sheriff will be employed to help maintain order and insure ballot security.
2. A Quorum of the Board of Canvassers shall be present during all procedures of the Canvass.
3. The Board will handle only one precinct at a time; and each precinct will be handled the same way.
4. Each precinct will have its own precinct canvassing worksheet, which will become a part of the official canvass record.
5. All records relative to a precinct will be examined including, but not limited to, the following: poll book, log sheets, write-in envelopes, statements of ballots used, unofficial election results and ballots.
6. Provisional Ballots: The Board will vote on all Provisional Ballots using the guidelines which are attached hereto as Exhibit A;
 - (a) The ballot of any properly registered poll worker working out of their precinct WILL be counted;

- (b) Any ballots challenged which were cast by voters whose precincts did not open on time due to the late arrival of poll workers in the voters' precincts, WILL be counted after proper verification;
 - (c) If the voter's registration form is not in the precinct book due to an office error - that voter's ballot WILL be counted;
 - (d) The ballot cast by a voter who registered by post card and did not show the poll clerks identification on Election Day will NOT be counted;
 - (e) The ballot cast by a handicapped voter whose polling place was not handicapped accessible on Election Day WILL be counted if it is determined that the precinct in which the handicapped voter was a properly registered voter in a non-handicapped accessible location;
 - (f) The Board will NOT open any Provisional Ballot envelope until that challenge has been ruled upon;
 - (g) If the Board rules to count the ballot, the ballot WILL be removed from the challenge envelope and that ballot shall be initialed by a majority of the Board and then tabulated by the election computer with the rest of that precinct's ballots;
 - (h) If the Board rules not to count the ballot, the envelope will NOT be opened and a majority of the Board shall initial and number the outside of that envelope; and
 - (i) Said canvassing rules are further enumerated on Exhibit A, which is attached hereto and made a part hereof.
7. Absentee Ballots: The Board will NOT count any late absentee ballots except those which were received by the County Clerk prior to the start of the canvass and which were postmarked by June 9, 2020. Further, any absentee ballot sent to a properly registered voter which ballot was returned to the County Clerk bearing a postmark within Kanawha County will be counted. However, absentee ballots mailed to the County Clerk at a post office outside the County which were postmarked within Kanawha County as a result of the failure of the out-of-county post office to cancel all stamps will be counted, the Board being advised that the postmark affixed in the latter case is readily identifiable it being a different postmark than is regularly affixed by the post office. In accordance with W. Va. Code § 3-3-5(h), military absentee ballots shall be counted if received prior to the start of canvass regardless of postmark.
8. Regular precinct ballots WILL be used for the duplication of any damaged ballot.

9. Improperly Signed Ballots: In the absence of a showing of fraud or other substantial impropriety, ballots which do not have the signatures of both poll clerks, as well as ballots which do not have the signatures of either poll clerk WILL be counted.
10. The hand count of five percent (3%) of the 165 precincts will be conducted at the Voter's Registration Office by persons employed or designated to do the hand count who will be under the supervision of the Board of Canvassers. These Five (5) precincts will be drawn at random. Those precincts which are to be hand counted will be designated by an Order of the Board at or prior to the beginning of the hand count.
11. The unofficial returns printed by the tabulating equipment, to which have been added write-in and other valid votes ordered counted by the Board of Canvassers, shall constitute the official returns for each precinct. The official returns shall be on a precinct-by-precinct basis.
12. After canvassing the returns of the election, the Board shall publicly declare the election results. They shall enter an Order certifying the election results not less than forty-eight (48) hours, excluding Sunday, after their declaration, if there is no request for a recount.
13. Other actions on specific matters will be considered and officially adopted during the Canvass process should any unique situations arise.
14. Write-In Ballots and Votes:
 - (a) Only write-in votes naming an official write-in candidate WILL be counted and be certified as part of the official election results;
 - (b) If any write-in candidate receives a higher number of votes than the candidates on the official ballot for that particular office, that person will be certified the winner for that office.
15. The Uncounted Ballots: If during the canvass, ballots are found in ballot boxes which were not counted at the counting center immediately after the closing of the polls on June 9, 2020, these ballots WILL be counted in the absence of a potential for fraud. In determining whether there is a potential for fraud in regard to such ballots, the Board of Canvassers will consider whether the number on the ballot indicates that the ballot was sent to the precincts in which precinct's ballot box the ballot was found and the poll tickets and the registration books to determine whether counting the ballot would result in counting more ballots than the poll tickets and registration books would indicate had properly voted in that precinct on election day. The Board of Canvassers may further consider such other matters which might deem proper to determine whether a potential for fraud exists.

Further, the County Commission directs the Clerk of the County Commission to post a copy of these General Rules at all entrances of the Courthouse Complex effective immediately. Such notice shall continue to be posted for public review until the formal conclusion of the June 15, 2020, Primary Election Canvass.

The adoption of the foregoing Motion having been moved by:

W. Kent Carper, Commissioner, and duly seconded by:

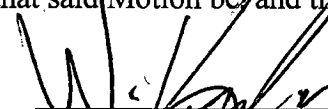
Ben Salango, Commissioner, the vote thereon was as follows:

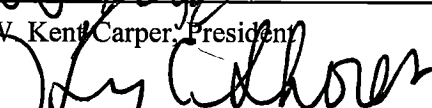
W. Kent Carper, President AYE

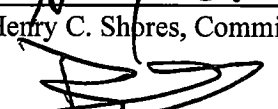
Henry C. Shores, Commissioner AYE

Ben Salango, Commissioner AYE

WHEREUPON, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said Motion be, and the same is hereby adopted.



W. Kent Carper, President


Henry C. Shores, Commissioner


Ben Salango, Commissioner

Approved by: 

Marc J. Slotnick, County Attorney

Canvassing Provisional Ballots

The following is provided as guidance for deciding whether or not to count provisional ballots. In all instances it is the duty of the Board of Canvassers to evaluate the information provided and make the determination whether to count the ballot.

	Reason for Provisional Ballot	Suggestion for counting
A.	Voter is NOT a registered voter in your county	NO
B.	Voter had a name change. If voter meets all of the following... <ul style="list-style-type: none"> • Is a registered voter of your county; • voted in precinct in which registered; • affirmed change with signature on poll ticket; and • has no other valid challenge 	YES
C.	Voter moved to address within county in a new precinct. If voter meets all of the following... <ul style="list-style-type: none"> • Is a registered voter of your county; • voted in precinct for the new address; • affirmed change with signature on poll ticket; and • has no other valid challenge 	YES WV Code §3-2-31
D.	Voter changed address in county. If voter... <ul style="list-style-type: none"> • voted in precinct which is NOT the precinct of the new address. 	NO
E.	Voter is handicapped and voted outside current precinct but within county. If voter... <ul style="list-style-type: none"> • Is a registered voter in your county; and • Is currently registered in a precinct that is NOT handicapped accessible. <p style="text-align: center;">-OR-</p> Is currently registered in a precinct that is appropriately handicapped accessible.	YES – but count only races and/or issues on the ballot in voter's correct precinct NO WV Code §3-1-34
F. <i>(primary elections only)</i>	Voter voted a ballot for a political party different from the one in which he/she is registered. If voter... <ul style="list-style-type: none"> • voted a ballot of a different political party affiliation than that of their current, signed registration card. ** Does not apply to those not registered in one of the four political parties in West Virginia.	NO
G.	Voter was a poll worker. If voter... <ul style="list-style-type: none"> • was working out of his/her current precinct; and • has no other valid challenge. 	YES – but count only races and/or issues on the ballot in voter's correct precinct.

H.	<p>Voter received assistance believed unnecessary. If it is determined by the board of canvassers that...</p> <ul style="list-style-type: none"> • assistance received was NOT necessary <p style="text-align: center;">- OR -</p> <ul style="list-style-type: none"> • assistance received WAS NECESSARY 	<p style="text-align: center;">NO</p> <p style="text-align: center;">YES</p>
I.	<p>Voter requested an absentee ballot by mail and appeared at the polls to vote. The voter did not return the absentee ballot to the election commissioners.</p>	<p>Board of Canvassers must determine if an absentee ballot was returned to the county clerk.</p>
J.	<p>Voter voted an absentee ballot but absentee ballot application was completed incorrectly.</p>	<p>Board of Canvassers determines if the errors were sufficient to deny the ballot.</p>
K.	<p>Voter voted an absentee ballot but absentee ballot application contained false statements or declaration.</p>	<p>Board of Canvassers determines if statements are false.</p>
L.	<p>An absentee voter's handwriting is not the same on his/her voter's registration card, ballot application, and absent voter's ballot envelope.</p> <ul style="list-style-type: none"> • Consider illness, age, disabilities, etc. when comparing the absentee ballot application and the absent voter's ballot envelope to the voter's registration card. 	<p>Board of Canvassers determines if signature is the same and acts accordingly.</p>
M.	<p>Signature on poll slip is not in the same handwriting as the signature on the registration card.</p> <ul style="list-style-type: none"> • Consider illness, age, disabilities, etc. when making this determination 	<p>Board of Canvassers determines if signature is the same and acts accordingly.</p>
N.	<p>Ballot does not contain proper signatures of poll clerks. (This includes election day, absentee and early voting ballots.)</p> <p>This is considered an error on the part of the poll clerks.</p>	<p>YES - If all ballots in precinct can be accounted for</p>
O.	<p>Absentee envelope does NOT contain signature of voter.</p>	<p style="text-align: center;">NO</p>
P.	<p>Voter has died after absentee ballot was cast. (Absentee ballot should not be challenged due only to death.)</p>	<p style="text-align: center;">YES</p>

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse, Charleston, West Virginia, thereof, on the 21st day of April, 2020, the following Order was made and entered:

SUBJECT: Emergency Supplemental Rules for the Board of Canvassers to be Observed for the June 9, 2020, Primary Election

The following motion was offered by W. Kent Carper, Commissioner:

WHEREAS, On March 16, 2020, Governor Jim Justice issued a Proclamation declaring a state of emergency for all 55 counties of the State of West Virginia in response to the growing public health threat posed by the COVID-19 pandemic and in accordance with President's declaration of a National Emergency; and

WHEREAS, on March 23, 2020, Governor Justice issued Executive Order No. 9-20, which among other things, closed certain businesses and ordered that certain essential businesses and operations, including local governments, shall remain open; and

WHEREAS, on April 4th, 2020, the President of the United States issue a Major Disaster Declaration for the State of West Virginia; and

WHEREAS, further, on April 1st, 2020, the Governor entered Executive Order 18-20 moving the date of the Primary Election from May 12, 2020 to June 9, 2020

WHEREAS, further, on April 4th 2020, the Governor entered Executive Order No.21-20 which identified Kanawha County as a developing COVID hotspot and ordered further restrictions on the residents and businesses of the County; and

WHEREAS, the West Virginia Secretary of State did further promulgate 153 CSR 53, Election Processes and Abstentee Eligibility During State of Emergency; and,

WHEREAS, this County Commission does recognize the safety and health of all of election workers, and finds it necessary to make certain changes to the canvassing procedures.

WHEREAS, the West Virginia Ethics Commission has found that meetings of governing bodies may be held telephonically or live via audio or visual stream.

NOW THEREFORE: The County Commission of Kanawha County, West Virginia, does hereby adopt the following Emergency Rules for the Board of Canvassers to be observed for the June 9, 2020, Primary Election:

1. The County Commission of Kanawha County, serving as the Board of Canvassers, may meet telephonically, by video stream or in person. The public shall be advised in advance as to how they will be able to view and hear the proceedings in accordance with established Ethics Opinion and West Virginia law.
2. The County Commission, serving as the Board of Canvassers, may deputize individuals to serve on its behalf in handling and reviewing provisional ballots, and all other elections materials required during canvass.
3. Upon opening of Canvass, the County Commission serving as the Board of Canvassers shall immediately take up the matter of all absentee ballots that have been received after election day, and will order those eligible ballots to be counted without further delay.
4. The County Commission, serving as the Board of Canvassers, does determine that in order to limit contact between individuals for the health and safety of all workers, that pursuant to W. Va. Code 3-4A-28(c) that the 5 precinct to be selected for manual count randomly will be the 5 precincts with the lowest voted ballot counts. The County Commission, serving as the Board of Canvassers, does determine this to be a random selection pursuant to the said W. Va. Code 3-4A-28(c), and shall further enable all worker to maintain their proper distance and comply with rules then in effect by the Kanawha Charleston Health Department and the State of West Virginia.
5. Further, where counting teams may be placed in separate to maintain distancing, those proceedings will be available by live stream via videoconferencing to the Board of Canvassers and Public.
6. These Emergency Rules may further be supplemented at a regular, special or emergency meeting of the County Commission of Kanawha County, or on the day of Canvass if necessary after further evaluation of the health and safety risks concerning canvass and the workers involved.

Further, the County Commission directs the Clerk of the County Commission to post a copy of these Emergency Supplemental Rules at all entrances of the Courthouse Complex effective immediately. Such notice shall continue to be posted for public review until the formal conclusion of the June 15, 2020, Primary Election Canvass.

The adoption of the foregoing Motion having been moved by:

W. Kent Carper

_____, Commissioner, and duly seconded by:

Ben Salango

_____, Commissioner, the vote thereon was as follows:

W. Kent Carper, President

AYE

Henry C. Shores, Commissioner

AYE

Ben Salango, Commissioner

AYE

WHEREUPON, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said Motion be, and the same is hereby adopted.



W. Kent Carper, President




Henry C. Shores, Commissioner



Ben Salango, Commissioner

Approved by: _____


Marc J. Slotnick, County Attorney