

# **Election Day Notice for Election Departments**

October 29, 2024

**THE FOLLOWING IS JUST A SAMPLE AND IS NOT LEGAL ADVICE**

[Your Name]

[Your Address]

[City, State, Zip Code]

[Email Address]

[Phone Number]

[Date]

**To: [Election Official's Name]**

**From: [Your Name/Office]**

**Date: [Current Date]**

**Subject: Urgent Election Day Preparations – Legal Obligations, Backup Plans, Transparency, and Observers**

Dear [Election Official],

Given the projected unprecedented voter turnout for this pivotal election, and the critical role this election plays in our democracy, you are hereby notified of your legal obligations under federal and state election laws. This notice serves to emphasize the importance of your preparation to accommodate a potentially record-breaking number of voters while ensuring compliance with the Help America Vote Act (HAVA), the Americans with Disabilities Act (ADA), and the Voting Rights Act of 1965.

## Legal Responsibilities:

### 1. Compliance with the Help America Vote Act (HAVA):

- **Section 301:** Ensure voting systems provide for accessible voting for individuals with disabilities.
- **Section 905:** Outlines penalties for conspiracy to deprive voters of a fair election or providing false information in registering and voting.

### 2. Americans with Disabilities Act (ADA):

- Polling places must be physically accessible, and voting processes must accommodate those with disabilities.

### 3. Voting Rights Act of 1965:

- Prohibits practices that could result in discriminatory effects, including unnecessarily long waits that might disproportionately affect certain groups.

## Preparation Steps:

### 1. Increase Polling Locations:

- Ensure compliance with state laws on polling place distribution.

### 2. Staffing and Training:

- Train staff in both electronic and manual voter processing techniques.

### 3. Voting Equipment:

- Ensure all voting machines are tested and functional, with backups.

#### **4. Dual Check-In Systems:**

- **Primary Electronic Check-In:** Utilize technology for efficiency.
- **Manual Paper-Based Backup:**
  - **Preparation:** Keep updated paper voter rolls and emergency ballots.
  - **Implementation:** Train staff to switch to manual methods swiftly.

#### **5. Transparency and Chain of Custody for Manual Processes:**

- **Chain of Custody:**
  - Document every step of manual ballot handling, from receipt to deposit.
  - Securely seal ballot boxes, with records of who seals them.
- **Transparency Measures:**
  - Ensure poll watchers and observers have clear visibility of all processes, except where voter privacy is concerned.
  - Maintain detailed logs of manual operations for audit purposes.

#### **6. Voter Education:**

- Communicate potential use of manual systems to voters.

## **7. Weather Considerations:**

- Provide adequate protection for voters in extreme weather.

## **8. Accessibility:**

- Ensure accommodations for disabled and elderly voters.

## **9. Voter Assistance:**

- Prepare for alternative voting methods like curbside voting.

## **10. Time Management:**

- Plan for possible extension of voting hours.

## **Observers and Transparency:**

- **Warning:** It is vital to uphold the transparency of the election:
  - **Poll Watchers:** Do not impede, obstruct, or intimidate any authorized poll watchers or observers. This could be considered a violation of election laws and may lead to personal legal consequences.
  - **Transparency:** Any attempt to conceal, misrepresent, or obstruct the observation of election processes can lead to:
    - **Legal Action:** Under laws protecting voter rights and election integrity.
    - **Professional Consequences:** Potential sanctions or removal from office for undermining the

electoral process.

### Your Personal Responsibility:

As an election official, you are legally and ethically bound to ensure that every eligible voter can cast their ballot without undue hardship. Failure to adequately prepare can lead to:

- **Legal Accountability:** You could face legal action, fines, or even criminal prosecution for failing to uphold the laws designed to protect voter rights.
- **Professional Repercussions:** Your career could be jeopardized, potentially facing sanctions or loss of position for negligence or non-compliance.

### Potential Criminal Consequences:

- **Election Interference:** Under federal and state laws, officials might be criminally liable for actions or inactions that interfere with the electoral process, potentially facing fines or imprisonment.
  - **18 U.S.C. § 241:** Conspiracy against rights, including the right to vote, is a federal offense.
  - **18 U.S.C. § 594:** Intimidating or threatening voters, including through administrative neglect, can lead to prosecution.
- **Falsification or Misconduct:** Providing false information or neglecting duty can lead to charges under election fraud statutes.
- **Non-Compliance with HAVA or ADA:** While primarily civil,

willful violations could also be addressed under criminal statutes if gross negligence or intentional violation is proven.

Please confirm by [DATE] that you have prepared adequately, including having a transparent manual backup plan and ensuring observer access, to maintain the integrity of the election.

Sincerely,

[Your Name]

[Your Position]

[Your Contact Information]

**Urgency and Accountability:** This notice underscores the legal and ethical necessity to maintain transparency and accessibility in every facet of election administration.