

721—21.1(47) Emergency election procedures. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

21.1(1) Definitions.

“*Commissioner*” means the county commissioner of elections.

“*Election contest court*” means any of the courts specified in Iowa Code sections 57.1, 58.4, 61.1, 62.1 and 376.10.

“*Extremely inclement weather*” means a natural occurrence, such as a rainstorm, windstorm, ice storm, blizzard, tornado or other weather conditions, which makes travel extremely dangerous or which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Natural disaster*” means a natural occurrence, such as a fire, flood, blizzard, earthquake, tornado, windstorm, ice storm, or other events, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*Other disaster*” means an occurrence caused by machines or people, such as fire, hazardous substance or nuclear power plant accident or incident, which threatens the public peace, health and safety of the people or which damages and destroys public and private property.

“*State commissioner*” means the state commissioner of elections.

21.1(2) Notice of natural or other disaster or extremely inclement weather. The county commissioner of elections, or the commissioner’s designee, may notify the state commissioner of elections that due to a natural or other disaster or extremely inclement weather an election cannot safely be conducted in the time or place for which the election is scheduled to be held. If the commissioner or the commissioner’s designee is unable to transmit notice of the hazardous conditions, the notice may be given by any elected county official. Verification of the commissioner’s agreement with the severity of the conditions and the danger to the election process shall be transmitted to the state commissioner as soon as possible. Notice may be given by telephone or by facsimile machine, but a signed notice shall also be delivered to the state commissioner.

21.1(3) Declaration of emergency due to natural or other disaster or extremely inclement weather. After receiving notice of hazardous conditions, the state commissioner of elections, or the state commissioner’s designee, may declare that an emergency exists in the affected precinct or precincts. A copy of the declaration of the emergency shall be provided to the commissioner.

21.1(4) Emergency modifications to conduct of elections. When the state commissioner of elections has declared that an emergency exists due to a natural or other disaster or to extremely inclement weather, the county commissioner of elections, or the commissioner’s designee, shall consult with the state commissioner to develop a plan to conduct the election under the emergency conditions. All modifications to the usual method for conducting elections shall be approved in advance by the state commissioner unless prior approval is impossible to obtain.

Modifications may be made to the method for conducting the election including relocation of the polling place, postponement of the hour of opening the polls, postponement of the date of the election if no candidates for federal offices are on the ballot, reduction in the number of precinct election officials in nonpartisan elections, or other reasonable and prudent modifications that will permit the election to be conducted.

21.1(5) Relocation of polling place. The substitute polling place shall be as close as possible to the usual polling place and shall be within the same precinct if possible. Preference shall be given to buildings which are accessible to the elderly and disabled. Buildings supported by taxation shall be made available without charge by the authorities responsible for their administration. If it is necessary, more than one precinct may be located in the same room.

A notice of the location of the substitute polling place shall be posted on the door of the former polling place not later than one hour before the scheduled time for opening the polls or as soon as possible. If it

is unsafe or impossible to post the sign on the door of the former polling place, the notice shall be posted in some other visible place at or near the site of the former polling place. If time permits, notice of the relocation of the polling place shall be published in the same newspaper in which notice of election was published, otherwise notice of relocation may be published in any newspaper of general circulation in the political subdivision which will appear on or before election day. The commissioner shall inform all broadcast media and print news organizations serving the jurisdiction of the modifications.

21.1(6) *Postponement of election.* An election may be postponed until the following Tuesday. If the election involves more than one precinct, the postponement must include all precincts within the political subdivision. If the election is postponed, ballots shall not be reprinted to reflect the modification in the election date. The date of the close of voter registration for the election shall not be extended. Precinct election registers prepared for the original election date may be used or reprinted at the commissioner's discretion.

On the day that the postponed election is actually held all election day procedures must be repeated.

21.1(7) *Absentee voting in postponed elections.* Absentee ballots shall be delivered to voters until the date the election is actually held. Absentee ballots shall be accepted at the commissioner's office until the hour the polls close on the date the election is held. Absentee ballots which are postmarked no later than the day before the election is actually held shall be accepted if received no later than the time prescribed by the Iowa Code for the usual conduct of the election. The time shall be calculated from the date on which the election is held, not the date for which the election was originally scheduled.

21.1(8) *Special precinct board in postponed elections.* The special precinct board shall meet to consider special ballots at the times specified in Iowa Code sections 50.22 and 52.23, calculated from the date the election is held. No absentee ballots shall be counted until the date the election is held.

21.1(9) *Canvass of votes in postponed elections.* The canvass of votes shall also be rescheduled for one week following the original date.

21.1(10) *Postponements made on election day.* If the emergency is declared while the polls are open and the decision is made to postpone the election, each precinct polling place in the political subdivision shall be notified to close its doors and to halt all voting immediately. People present in the polling place who are waiting to vote shall not be given ballots or admitted to the voting machines, as appropriate. People who have received ballots shall deposit them in the ballot box; unmarked ballots may be returned to the precinct election officials.

The precinct election officials shall seal all ballots which were cast before the declaration of the emergency in secure containers. The containers shall be clearly marked as ballots from the postponed election. If it is safe to do so, the ballot containers, election register, and other election supplies shall be transported to the commissioner's office. The ballots shall be stored in a secure place. If it is unsafe to travel to the commissioner's office, the chairperson of the precinct election board shall see that the ballots and the election register are securely stored until it is safe to return them to the commissioner. If no contest is pending six months after the canvass for the election is completed, the unopened ballot containers shall be destroyed.

If voting machines or automatic tabulating equipment is used, the machines or automatic tabulating equipment shall be closed and sealed without printing the results. Before the date the election is held, the machines or automatic tabulating equipment shall be reset to zero. Any documents showing the progress of the count, including paper records required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, shall be sealed and stored. No one shall reveal the progress of the count. After six months, the envelope containing the vote totals shall be destroyed if no contest is pending.

21.1(11) *Records kept.* The state commissioner of elections shall maintain records of each emergency declaration. The records shall include the following information:

- a. The county in which the emergency occurred.
- b. The date and time the emergency declaration was requested.
- c. The name and title of the person making the request.
- d. Name and date of the election affected.
- e. The jurisdiction for which the election is to be conducted (school, city, county, or other).
- f. The number of precincts in the jurisdiction.

- g.* The number of precincts affected by the emergency.
- h.* The nature of the emergency, i.e., natural or other disaster, or extremely inclement weather.
- i.* The date or dates of the occurrence of the natural or other disaster or extremely inclement weather.
- j.* Conditions affecting the conduct of the election.
- k.* Whether the polling places may safely be opened on time.
- l.* Action taken: such as moving the polling place, change voting system, postpone election until the following Tuesday.
- m.* Method to be used to inform the public of changes made in the election procedure.
- n.* The signature of the state commissioner or the state commissioner's designee who was responsible for declaring the emergency.

21.1(12) *Federal elections.*

a. If an emergency occurs that will adversely affect the conduct of an election at which candidates for federal office will appear on the ballot, the election shall not be postponed or delayed. Emergency measures shall be limited to relocation of polling places, modification of the method of voting, reduction of the number of precinct election officials at a precinct and other modifications of prescribed election procedures which will enable the election to be conducted on the date and during the hours required by law.

The primary election held in June of even-numbered years and the general election held in November of even-numbered years shall not be postponed. Special elections called by the governor pursuant to Iowa Code section 69.14 shall not be postponed unless no federal office appears on the ballot.

b. If a federal or state court order or any other order extends the time established for closing the polls pursuant to Iowa Code section 49.73, any person who votes after the statutory hour for closing the polls shall vote only by casting a provisional ballot pursuant to Iowa Code section 49.81. Provisional ballots cast after the statutory hour for closing the polls shall be sealed in a separate envelope from provisional ballots cast during the statutory polling hours. The absentee and special voters precinct board shall tabulate and report the results of the two sets of provisional ballots separately.

21.1(13) *Report to state commissioner.* A report of the actions taken and recommendations for future situations shall be prepared by the commissioner and sent to the state commissioner of elections not later than one week following the canvass of the election.

21.1(14) *Military emergencies.* During an armed conflict involving the United States armed forces, or mobilization of those forces, the state commissioner of elections may order the use of facsimile transmission of absentee ballots to electors if the Federal Voting Assistance Office in the Department of Defense requests that this service be made available to personnel in military operations.

If requested by the Department of Defense, absentee ballots may be returned via facsimile transmission if the elector waives the right to a secret ballot. In addition to the affidavit required by Iowa Code section 53.13, the elector shall sign a statement in substantially the following form: "I understand that by returning this ballot by facsimile transmission my voted ballot will not be secret. I hereby waive my right to a secret ballot."

When absentee ballots are received via facsimile transmission, the person receiving the transmission shall examine the transmission to determine that all pages have been received and are legible. The person receiving a facsimile transmission shall not reveal how the elector voted.

The absentee ballot shall be sealed in an envelope marked with the elector's name. The affidavit of the elector and the application for the ballot shall be attached to the envelope. These materials shall be stored with other returned absentee ballots.

21.1(15) *Election contest emergency.* If an election contest court finds that there were errors in the conduct of an election which make it impossible to determine the result of the election, the contest court shall notify the state commissioner of elections of its finding. The state commissioner shall order a new election to be held. The election date shall be set by the state commissioner. The repeat election shall be conducted under the state commissioner's supervision.

The repeat election shall be held at the earliest possible time, but it shall not be held earlier than 14 days after the date the election was set aside. Voter registration, publication, equipment testing and other applicable deadlines shall be calculated from the date of the repeat election.

The repeat election shall be conducted under the same procedures required for the election that was set aside, except that all known errors in preparation and procedure shall be corrected. The nominations from the initial election shall be used in the repeat election unless the contest court specifically rejects the initial nomination process in its findings. Precinct election officials for the repeat election may be replaced at the discretion of the auditor.

The following materials prepared for the original election shall be used or reconstructed for the repeat election:

Ballots (showing the date of repeat election). This may be stamped on ballots printed for the original election.

Notice of election (showing the date of repeat election).

This rule is intended to implement Iowa Code section 47.1.