

NEW HAMPSHIRE ELECTION PROCEDURE MANUAL: 2022-2023

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NEW HAMPSHIRE
DEPARTMENT OF STATE



To the Election Officials of New Hampshire:

August 5, 2022

As recent global events have reminded us, the right of citizens to have a say in their country's future is vital to a well-functioning democracy and must be protected.

Thanks to you, our Moderators, Clerks, Supervisors of the Checklist, Inspectors of Election, Select Boards and other election officials, voters in New Hampshire are not only protected, but also empowered. Voters who are empowered show up at the polls. Data obtained from Dr. Michael P. McDonald of the United States Election Project found that New Hampshire's voter turnout was the third-highest among all 50 states during the last four Presidential Elections.

Along with voter education, transparency in the election process is vital for ensuring our voters that the state's elections are well-run, accurate and fair. I greatly appreciate your willingness as election officials to educate the public about elections and speak in detail about election procedures at public meetings, including those hosted by the Special Committee on Voter Confidence. New Hampshire's elections are convenient, secure and easily observable thanks to you.

With our local election officials at the helm, New Hampshire has a successful track record of fair elections where qualified voters' ballots are accurately counted. Your proactive efforts to engage voters and adapt to challenges each election cycle do not go unnoticed. Thank you, as always, for being trusted sources of information for all of New Hampshire voters.

Several necessary revisions were made to this manual based on your recommendations. Using webinars, HAVA trainings and information posted on our website at <https://sos.nh.gov/>, my office will continue to work hard to provide you with the knowledge and tools necessary to successfully navigate New Hampshire's time-tested election process. My staff and I are here to support you; our doors are always open.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Scanlan".

David M. Scanlan
Secretary of State

This manual is dedicated to all local election officials in recognition of your tireless efforts to protect every citizen's right to vote and to count every vote accurately. The validity and credibility of New Hampshire elections rely on your willingness to learn and properly execute the election laws. Voting is the most fundamental right in a democracy because it is through voting that citizens protect all other rights. Local election officials are the first and primary protectors of that most fundamental right, the right to cast an accurately counted vote.

Thank you!

PREFACE AND ACKNOWLEDGEMENTS

This document is the Election Procedure Manual prepared by the Secretary of State with the advice and approval of the Attorney General pursuant to RSA 652:22. It should be used in conjunction with the Secretary of State's website at <https://sos.nh.gov/>, training resources provided to Clerks and Supervisors through *ElectioNet*, as well as Memos, Webinars, and other training provided to Moderators, Clerks, Supervisors of the Checklist, Boards of Selectmen, and other local School District and Village District election officials.

The Manual has checklists for each election official role, a glossary of election law terms, more detail on best practices for processing absentee ballots at the polling place, and a chart of when supervisors must hold sessions. This 2022 revision of the Election Procedure Manual reflects changes to the election laws made in 2021 and 2022. The Manual is organized in four parts: Part 1, Elections from Start to Finish; Part 2, Responsibilities of Election Officials by Office; Part 3, Expanded Guidance: Accessibility, Challenges, Electioneering, & Wrongful Voting; Part 4, Forms and Appendices.

The Manual starts with a "What is New" section, highlighting recent changes to the election laws. It then provides important information on cyber security, how to protect your voters' records and yourself. Part 1, Elections from Start to Finish, describes all aspects of an election chronologically. The manual then repeats the information on how to conduct an election, organized by the specific responsibilities assigned to each office. The Responsibilities of Election Officials by Office is designed to allow a new official to first read the section for his or her office. The Responsibilities by Office sections are often useful for experienced officials to refresh their understanding of election law requirements. Part 3 provides expanded guidance on accessibility, challenges to voters, electioneering, and wrongful voting. Part 4 contains samples of forms, appendices, and subject matter and statute indexes. **Throughout this edition, substantive changes are highlighted.** This allows readers to quickly focus on substantive changes. Edits that seek to present the same information as in the last edition, just more clearly, are not highlighted. For forms and appendices, forms have a date in the footer, at the bottom of the document, showing the month and year the form was last updated.

Finally, copies of forms, charts, polling place layouts, suggested procedures, and sample notices are provided. There is an extensive index at the back of the Manual to assist readers in quickly locating answers to questions. The work done in the past by the volunteers from the New Hampshire City and Town Clerks' Association continues to serve as the foundation for this Manual.

While this document reflects a concentrated effort by the Secretary of State's Office and the Attorney General's Office to summarize and organize the election laws, it is not binding legal authority. The Election Procedure Manual is a resource and learning tool. The Manual is not a substitute for the relevant statutes or for legal advice. Court decisions and changes to the statutes made between printings of the Manual may change the election laws. Whenever uncertainty exists as to what action to take, we will make our best effort to assist you and you should consult your local legal counsel.

The Attorney General's Office enforces the election laws and serves the Secretary of State as legal counsel. However, if a local election official is sued the local election official's town or city legal counsel will represent the official. If disagreement exists as to proper procedure, consult with your jurisdiction's local legal counsel before acting.

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Absentee Ballot Affidavit Envelope

The format of the absentee ballot affidavit envelope was changed to require an applicant to only indicate that one of the listed reasons for requesting an absentee ballot applies without requiring the voter to identify which reason applies. RSA 657:7. SB31 (2021).

On the absentee ballot application the applicant is still required to identify which listed circumstance allows them to vote by absentee ballot, however, they are no longer required to identify the specific reason on the affidavit envelope they use to return the

marked absentee ballot.

Absentee Ballot Applicant List

Clerks are required to provide the list of persons requesting absentee ballots to a candidate whose name appears on the ballot. This has been the law for some time. A new law requires that if a candidate requests the list in electronic format, it must be provided free of charge. The law also limits the information that can be provided to the voter name, voter ID number, the date the absentee ballot was requested, and the date that the ballot was returned. The *ElectioNet* Clerk’s list of absentee voters contains

additional information and therefore cannot be used. The Secretary of State will provide a list that complies with law until the Statewide Voter Registration System can be re-programmed to provide a report for disclosing absentee voter requests. RSA 657:15, II. HB326 (2021).

Statewide absentee voter lists provided by the Secretary of State to candidates for statewide office and political parties are limited to voter name, voter ID number, the date the absentee ballot was requested, and the date the ballot was returned. The statewide list must be provided at least once per week and at least twice each week for the four weeks prior to the election. RSA 657:15, III-a and IV. HB223 (2021).

Public Health Considerations And Absentee Voting

A voter would qualify to vote by absentee ballot and register by absentee registration if, in the voter's personal judgment based on the individual medical or health circumstances of the voter, the voter is being advised by medical authorities to avoid going out in public. This applies to a voter experiencing symptoms of any communicable disease or illness. It would also apply to a voter limiting public exposure as a preventative measure due to medical or health circumstances where voting or registering by absentee registration would be consistent with that voter's general, preventative measures behavior. These two classes of voters have a reasonable basis to conclude that a "physical disability" exists within the meaning of RSA 654:16 and RSA 654:17.

Additional Polling Places; Appointing Assistants to Additional Polling Place

The moderator must appoint an assistant moderator and the clerk must appoint an assistant clerk for each additional polling place. Previous law required the assistants to be domiciled in the voting district covered by

the additional polling place. The new law requires assistant moderators and clerks appointed in towns to be domiciled in the town, but not necessarily the voting district, of the additional polling place. It also requires that assistant moderators and clerks for cities be domiciled in the city ward where they will serve. RSA 658:14, RSA 658:18. HB476 (2021).

Address Maintenance; Change of Address Notice

The Secretary of State is required to ensure that voter addresses in the Statewide Voter Registration System are formatted in conformance with US Postal Service requirements. This includes a requirement for the zip code +4 format. RSA 654:45. HB285 (2021).

Starting on July 1, 2022, the Secretary of State is required to check NH voter addresses against the US Postal Service change of address system and notify supervisors of the checklist of permanent moves. RSA 654:45. HB285 (2021).

Electioneering

Electioneering is now defined by statute as: "visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted."

"Electioneering includes, but is not limited to:

I. Wearing clothing or paraphernalia that displays a candidate's name, likeness, or logo, a ballot measure's number, title, subject, or logo, a political party's name or logo, or any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure, provided that a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively

engaged in the process of voting.

II. Distributing or posting a card, handbill, poster, placard, picture, pin, sticker, circular, or any other form of communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure.” RSA 652:16-h.

The law now explicitly permits a person wearing clothing with electioneering messages on it, which cannot reasonably be removed or covered, to wear the clothing inside the polling place while actively registering to vote or voting. SB45 (2020).

The prohibition on electioneering at the polling place has been amended:

“Electioneering shall be prohibited within the polling place building, provided that nothing in this section shall apply to the posting of sample ballots by election officials, pursuant to RSA 658:26, which have not been marked as voting for any candidate or measure.” RSA 659:43, I. SB45 (2020).

The moderator’s duty to establish an electioneering free area outside the polling place has been amended to allow more than one no-electioneering corridor. This allows separate corridors for each entrance or entrance pathway.

“The moderator shall establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to the parking lots that serve the polling place. The moderator shall establish the corridor in a manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor, and that permits a voter to step to the edge of the corridor and speak with those electioneering if he or she chooses.” RSA 659:43, II. SB45 (2020).

The moderator shall designate a preferred area of electioneering which should be within sight and conversational level sound of the primary entrance to the polling place.

“The moderator shall designate a preferred area for

electioneering, which to the extent practical shall be within sight and conversation-level sound of the primary entrance to the polling place and shall abide by any regulations or ordinances approved by the municipality's governing body pursuant to RSA 31:41-c or RSA 47:17, XIV-a. RSA 659:43, III.” SB45 (2020).

Electioneering must be permitted in areas outside of polling place building and outside the no-electioneering corridor(s). However, the moderator is empowered to designate any part of the polling place location—such as a parking lot—a no-electioneering corridor to permit voters arriving or leaving the polling place to move to and from the polling place without interruption or interference from electioneering individuals.

“Electioneering may occur outside the no-electioneering corridor and outside the designated preferred electioneering area.” RSA 659:43, IV. SB45 (2020).

Electioneering signs outside the polling place may not be affixed to the polling place building or grounds. An attended sign is permitted to rest on the ground while under the direct control of the person electioneering. Signs cannot be left unattended.

“Electioneering signs shall not be affixed to the polling place building or grounds. Electioneering signs shall not be left unattended.” RSA 659:34, V & VI.

Distribution or posting of electioneering communications in any form is prohibited inside the polling place and within the no-electioneering corridor(s). RSA 659:43, VII. SB45 (2020).

“The distribution or posting of electioneering communications, including but not limited to posters, cards, handbills, placards, pictures, pins, stickers, circulars, or articles of clothing, is prohibited within any no-electioneering corridor established outside the polling place by the moderator.” RSA 659:43, VII. SB45 (2020).

Violation of these prohibitions on electioneering is a “violation.” This is an offense that can be brought, typically by law enforcement, in a court. A violation carries a maximum consequence of a fine not exceeding \$1000. RSA 651:2, IV (a). Prohibited electioneering can also result in a civil penalty not to exceed \$1,000, levied by a court based on an action brought by the Attorney General. RSA 659:43, VIII & IX. SB45 (2020).

Official Misconduct of Election Officers

A new law establishing additional protection for election officials by making intimidation of election officials a class B felony takes effect on January 1, 2023. SB405 (2022). Further guidance will be provided when this law takes effect.

The same bill, SB 405 amends RSA 666:3. HB 1567 also amends RSA 666:3 with similar effect.

Existing law, RSA 666:3, I, makes it a misdemeanor for a public officer upon whom a duty related to elections is imposed to knowingly fail to perform such duty or knowingly perform it in such a way to hinder the objects thereof.

HB 1567 adds language to RSA 666:3 which highlights that an election official may lose their right to vote as a potential consequence if they are convicted of a crime in a court of law that constitutes a “willful violation of the election laws of this state or of the United States” as provided in the New Hampshire Constitution, Part 1, Article 11. HB 1567 (2022). This consequence has been the law in New Hampshire since it was added to our Constitution in 1912. This change to statute highlights the applicability of the consequence to an election official if convicted in court of a willful violation of the election law.

“No person shall have the right to vote under the constitution of this state who has been convicted of

treason, bribery or any willful violation of the election laws of this state or of the United States; but the supreme court may, on notice to the attorney general, restore the privilege to vote to any person who may have forfeited it by conviction of such offenses.” New Hampshire Constitution, Part 1, Article 11.

The amendments in both bills also impose a civil penalty on the county, city, town, school district, village district, or other political subdivision where the act occurs of not less than \$250 nor more than \$1000 for each act where a public officer with election related duties negligently fails to perform a duty or negligently performs the duty in such a way as to hinder the objects thereof. RSA 666:3. The Attorney General enforces this provision, subject to appeal to the superior court. SB405 (2022); HB1567 (2022).

Electronic Poll Book Use

Cities and towns may use electronic poll books for voter registration and check in at a local election only if the electronic poll book program has been recommended for approval by an evaluator approved by the Secretary of State and the system has been approved by the Secretary of State. The use of electronic poll books must follow the requirements issued by the Secretary of State.

RSA 652:27. SB46 (2021).

Some cities and towns have received approval from the Secretary of State for the limited use of electronic poll books in parallel with the statutory paper checklist process. No town or city may use a parallel system without the approval of the Secretary of State.

Under a parallel electronic poll book processing system, election officials must simultaneously fulfill all the requirements of law, as if no electronic poll book is in use. Officials typically do this by having additional appointed assistant election officials who use the check-in receipt issued by the electronic poll book to mark a paper checklist, as if the voter had checked in at the

paper checklist. Ballot clerks staffing the electronic poll book issue the voter a ballot and the voter marks and casts that ballot while the second team of election officials receive the receipt and mark the paper checklist. A 2022 amendment to law allows up to 30 minutes for the paper checklist to be marked. RSA 627:27, SB 364 (2022).

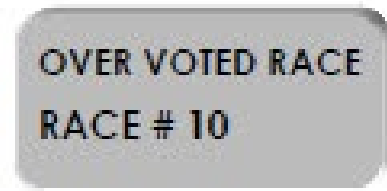
With this system, voters can check in at any electronic poll book station. Unlike traditional check in stations organized by sections of the alphabet, voters are not limited to one check in position. Election officials report that this parallel use significantly speeds up voter check-in for previously registered voters. It is also helpful after voting ends for determining the number of voters who received a ballot. The Secretary of State is developing a capability to receive uploads of the voting history from e-poll book systems.

Ballot Counting Devices – No Internet Connection

The Ballot Law Commission ordered that all ballot counting devices be modified to remove the modem and disable the serial port. April 9, 2010 Ballot Law Commission Order. RSA 656:42 has been amended to make it a statutory requirement that the device be incapable of connecting to the internet. *“No electronic ballot counting device shall have access to or be connected to the Internet.”* RSA 656:42, X, HB1157 (2022).

Ballot Counting Devices – Overvoted Ballots

Starting with 2022 elections, the ballot counting device must be set to return to the voter any ballot that the device reads as containing one or more overvotes. LHS will do this for all devices through the memory card; and no action by local election officials is required. The LCD screen on the device will show a message that includes “over voted race” and a race number. HB1163 (2022).



The race number is a sequential number assigned to the races the device is instructed to count. The race number has limited utility for our purposes. If more than one race or question is overvoted, only the first will be reported on the LCD screen.

The statute directs that the voter be instructed to place the ballot in the left side compartment in the ballot counting device base, where ballots that will be hand counted are placed. RSA 656:42, XI.



The Secretary of State will distribute an “Insert hand count ballots here” sign that should be attached to the device base.

A ballot is overvoted if the ballot, for any race or question, has marks in more ovals than the instruction for that race or question allows. Even small marks in an oval can be read as a vote by the device.

For example, the race for Governor will have an instruction to “Vote for not more than 1.” If the voter fills in the oval for two or more candidates, the device reads this as an overvoted race. When a race is overvoted no

candidate receives a vote. With this change to law, the device will reject and return the ballot to the voter. An election official later hand counting this ballot must apply the test of voter intent to determine if the voter chose a single candidate or overvoted by choosing two. In the case of an overvoted race no candidate for that office receives the vote.

If the voter fills in one oval and makes a stray mark on the ballot that crosses through an oval for a different candidate for Governor, prior to this change in law, the device would read this as an overvoted race. Now the device will return the ballot to the voter. Provided it is more likely than not that the stray mark is not intended as a vote, an election official later hand counting this ballot should count this as a vote for the candidate whose oval is clearly filled in.

Another example, if the voter fills in the oval for a candidate, but then puts a large X through the candidate's name, the oval, and/or writes "No Vote" this should be treated as a cancellation of the vote. Typically the voter fills in the oval for a different candidate, that candidate gets the vote. Prior to this change in law, the device would read a ballot with two ovals filled in as an overvoted race. Now the device will return the ballot to the voter. An election official later hand counting this ballot with a clearly canceled mark will count the ballot as a vote for the candidate with the completed oval that is not canceled.

Statute and a Supreme Court decision require that when hand counting a ballot, if the intent of the voter can be determined, it must be counted as intended by the voter. RSA 659:64. The legal standard is: what, more likely than not, was the voter's intent. Applying the intent of the voter is required, even if the voter did not follow the instructions on how to mark the ballot. See further discussion on page 101.

A ballot that is returned to the voter to be

inserted into the hand count bin, is **not counted** by the device **for any race** or question on that ballot. That ballot **must be fully hand counted**.

A moderator or an election official designated by the moderator to insert absentee ballots into a ballot counting device after the checklist has been marked documenting the absentee vote, must put all absentee ballots rejected as an overvote in the side opening where all ballots to be hand counted are inserted.

These ballots will not be included in the total of ballots counted on the ballot counting device results tape. These ballots must be included in the tally of the total number of hand counted ballots used for the ballot inventory.

An in-person voter who questions the instruction to place the ballot in the side slot for hand counting should be told:

"The device is not able to read your ballot, please insert the ballot in the side pocket. All of your choices will be hand counted after the polls close to voting."

RSA 656:42 directs that the voter be "*instructed to place the ballot in an auxiliary compartment to be hand counted by election officials after the polls close.*"

If, however, the voter requests a new ballot, follow the procedure for a spoiled ballot set out in RSA 659:22.

Use caution when interacting with a voter whose ballot has been returned to the voter due to the device reading an overvote. Even if asked by the voter, best practice is to avoid looking at how the ballot is marked to try to find the overvoted race(s). Even if that voter is willing to give up their right to a secret ballot, others hearing or seeing the interaction may view it as election official misconduct.

The moderator must ensure that these ballots, which must be fully hand counted,

are removed from the ballot counting device base and kept separate from ballots that are removed from the write-in bin, and the fully counted ballot bin, located inside the device under the cover. Unlock the side door and retrieve the ballots. Ideally place them in a temporary box labeled “Hand Count – all races and questions must be fully hand counted – these ballots were not counted by the device.”



The new law requires the moderator to keep two tallies for overvotes. First the moderator must keep a tally of the overvotes for each race. Second, the moderator must keep a tally of the total number of ballots containing one or more overvotes for any race or question.

- For each election, the number of ballots containing one or more overvoted races or questions; and
- For each office or ballot question, the number of overvotes and undervotes.

RSA 659:73, IV.

The “Return of Votes” will have places in the box at the bottom where the totals of ballots cast are report to report the number of overvoted ballots. Each office and question will have a place, below the list of candidates, to record the number of overvotes and the number of undervotes for that race or question. The law requires this information from both ballot counting device and hand count polling places. For the purposes of this reporting, treat a ballot as overvoted only if it is determined to be overvoted by the hand count.

This public record will allow anyone, for any race, to add the reported votes for each candidate, the reported write-in votes, and the reported overvotes and undervotes to determine whether this total matches the reported ballots cast and the number of voters marked as voting on the checklist.

As the ballot counting device will reject all ballots it reads as having an overvote, the number of overvoted ballots must be determined during the hand count of all ballots. For the count of overvoted ballots a ballot is an overvoted ballot only if the hand count determines the ballot has one or more overvoted races/questions. A ballot with two or more overvoted races counts as only one overvoted ballot for the purpose of determining the number of overvoted ballots.

During hand counting, if the moderator or designee is able to determine the intent of the voter was to mark only the permitted number of candidates for an office or just “yes” or just “no” for a question, the ballot is NOT an overvoted ballot.

The number of overvoted races or questions must be determined as part of the tallying of hand counted votes for each race or question.

To determine the number of under votes in each race, the moderator must:

- For device counted ballots, print a

long results tape and factor in the number of ballots in each race the device reports as blank or undervoted;

- For hand counted ballots have the tally keep track of how many undervotes (all ovals left blank for that race or question or in a vote for some number greater than 1, the number of authorized votes that the voter did not mark) there are in each race and question. See sample hand count tally sheet starting at page 419; and
- Add the results from the tape and hand count tally to determine and report the total number of undervotes for each race and question on the Return of Votes.

See page 176 for a further discussion of the return of votes. The law requires that the return of votes be delivered to the Secretary of State's office election night. Clerks deliver the election night forms and the one4all tablet to a designated local drop-off site. The New Hampshire State Police pick up and deliver to the state capitol overnight. The return of votes is a public document, subject to disclosure under the Right-to-Know law.

For 2022 elections the Secretary of State's office requests that a copy of the completed moderator's worksheet be sent to us. Either include a copy with the return of votes or e-mail a scan of the worksheet to nhvotes@sos.nh.gov. It will be useful in the canvas and will help us evaluate whether additional guidance/training is warranted.

Challengers Observing Ballot Counting

A challenger is a person appointed by the chairperson of a state political party, who can show the moderator a letter of appointment. Chosen by the political parties, these may be lawyers or volunteers who typically are trained in election procedures.

The law allows the Attorney General to appoint challengers. The Attorney General sends representatives of the office to conduct polling place inspections and to support local election officials, but typically does not appoint challengers.

A new law requires that during the counting of ballots and aggregation of counting results a challenger making a request, must be positioned outside the rail, but where the challenger can see and hear the hand-counting of ballots. A challenger's position must also allow a "line of sight" to the electronic ballot counting device. HB1174 (2022).

Notwithstanding any other provision of law to the contrary, a challenger appointed pursuant to RSA 666:5 shall be assigned by the moderator or other election official presiding at the polling place to such position or positions within the polling place as will enable such challenger to see and hear the hand-counting of ballots for the tabulation of votes, and to maintain a line of sight on any electronic ballot counting device. Nothing in this section shall deprive any other person of the right to observe the hand-counting of ballots for the tabulation of votes as provided by law. RSA 666:5-a. HB1174 (2022).

This new law does not alter the requirement in RSA 659:63, that "No ballot shall be placed within 4 feet of the guardrail during the counting of votes." Therefore, the right to see and hear the hand counting of ballots does not mean that the observer has the opportunity to see how each ballot is marked as it is counted. The opportunity to see how each ballot is marked and how the tally sheet is being marked is provided at a recount, but it is not practical at an election night count. It involves the observer being closer than 4 feet or the use of technology to allow viewing of the ballot and tally sheet.

Observers should be provided with instructions on how to alert the moderator if the observer believes that ballots are not being accurately counted or otherwise has concerns with counting. There is no

authority nor mechanism for an observer to protest how a particular ballot is being counted. Unless the moderator concludes the counting was not being done properly and directs further counting to correct process errors, the observer's only option is to seek to have a candidate request a recount.

To satisfy the requirements of this law, moderators need to ensure the layout of the area within the guardrail where ballot counting occurs is sufficiently close, but no closer than 4 feet from the rail, so that observers can see and hear the hand counting. At the same time, the ballot counting device must be in the "line of sight" from the designated spot outside the rail for the observer(s). We understand "line of sight" in this context to mean an unobstructed view. For example, the hand counting table and staff cannot block the observer's ability to see the ballot counting device. Line of sight does not require any specific proximity. The observer should be able to see enough of the ballot counting device to see the printing of the results tapes and allow observing the emptying of the different bins under the device where ballots are stored. If the usual setup does not satisfy this new requirement, the moderator should consider moving the hand count table(s), the ballot counting device, or the rail. Either or any combination can be done to achieve a compliant setup. Keep in mind the new provision in the disqualification statute allows election officials who are disqualified from handling or counting marked ballots to do other work within the rail, provided they are outside the area designated for ballot counting, results aggregation, and reconciliation.

Ballot Counting Devices – Long Report Tape

A new law requires the clerk to send a copy of the long tape report from the AccuVote ballot counting device with the Return of Votes to the Secretary of State on election

night. HB1527 (2022).

"For a city or town that uses an AccuVote electronic ballot counting device in a state election, the town or ward clerk shall print and forward a paper copy of the long report tape to the secretary of state with the return of votes form and shall keep a paper copy of the long report tape with the paper return of votes form that is retained by the town or city clerk in accordance with paragraph I." RSA 659:75, II. HB1527 (2022).

Ensure that the ribbon in the ballot counting device prints clearly legible numbers on the paper tape. Always keep a replacement ribbon and an extra roll of paper tape with the device.

Instructions for printing a long tape report are on page 354 of this manual.

Print at least 4 copies of the long results tape.

1 – to be kept by the clerk as a public record;

1 – to be kept by the moderator, to use if questions arise regarding the results;

1 – to send to the Secretary of State with the Return of Votes; and

1- to post as part of the moderator's public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk's office.

After printing the first long tape report the device LCD screen will ask whether you want another copy. Press the "yes" key.

An explanation of the data printed on the Long Report Tape is at page 354.

General Election – Additional Races Counted At Recount

HB 1467 requires the Secretary of State, when recounting state representative races at a general election to also recount an additional office randomly selected from President, United States Senate, United States House of Representatives, or Governor. This must be done for 10 of the state representative recounts. No additional action is required by local election officials. Your results in these top-of-ballot races, which are not commonly recounted, will now be subject to recount. When recount results are announced, you will see the results of this additional recount reported. The additional recounts are referred to in the statute as an audit. RSA 660:17-a. HB 1467 (2022).

2022 Elections Audit of Device Counted Ballots

The Secretary of State is required to test an audit process for ballots counted by a ballot counting device in two towns or wards in the 2022 primary election. The audit will use a high speed ballot counting device that captures an image of both sides of the ballot and is capable of displaying ballot images. SB366 (2022).

The moderators of the two polling places selected will be notified on election day. The moderators are required to keep the device counted ballots separate from hand counted ballots and to store them in different sealed boxes of ballots. If more than one ballot counting device is used, the ballots counted by each device must be put separate boxes. Each device's results tape must be compared to the audit device's report on exactly the same ballots that the election night device counted. The Secretary of State may have a representative at the polling place to help ensure the device counted ballots are kept in separate sealed boxes from the hand counted ballots, uncast ballots, spoiled ballots, and

absentee voting materials. The Secretary of State's staff will pick up the boxes of ballots from the selected towns/cities clerk on Wednesday, the day after the election.

The primary election audit will likely be conducted on Thursday. The audit will be public. The results will be publicly announced at the conclusion of the audit and available to the public prior to noon on the Friday after the election.

If the audit test for the primary is successful, an audit will be done of the device counted ballots from not less than 4 towns or wards from the 2022 General Election. See SB366 (2022) for further information.

Candidate Filings; Daily Electronic Summary Reports

In addition to mailing declarations of candidacy, primary petitions, assents to candidacy, and statements of financial interest to the Secretary of State on the same day that they are filed, town and city clerks must send a daily summary of these filings electronically. Summaries must include the name and address of every candidate who has filed. Reports shall only be required to be sent on days that clerks' offices are open and receiving filings. A report form is available in *ElectioNet*, which must be completed and e-mailed to elections@sos.nh.gov each day that a filing is received. RSA 655:18. HB77 (2021).

Incarcerated Persons; Addresses

When completing a voter registration form or an absentee ballot application, an incarcerated person must list the address of his or her domicile prior to incarceration in the address section and the address of the penal institution in the mailing address section. An incarcerated person who was domicile out-of-state prior to incarceration must vote in their home state. RSA 654:2- a. HB555 (2021).

Incarcerated Persons; Absentee Voting Clarification

A voter who is incarcerated for a misdemeanor or who is being held in a penal institution while awaiting trial has the right to vote by absentee ballot. The absentee ballot application form and absentee ballot affidavit envelope have been changed to add this to the list of recognized reasons a person may vote by absentee ballot. RSA 657:4 and RSA 657:7. HB555 (2021).

Checklist Available in Electronic Form

An amendment to RSA 654:31, II requires that the supervisors of the checklist and clerk shall provide the current checklist in either paper or electronic form, in accordance with the person requesting the checklist's preference. *ElectionNet* allows selecting the PDF (can be provided in electronic form or printed to paper), XLS (Excel – an electronic file), CSV (Comma Separated Values – an electronic file) or HTML (Web page view, can be printed to paper). The fee for the checklist remains the same and applies to both paper and electronic copies of the checklist. HB1496 (2022).

“In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist or city or town clerk shall furnish a physical copy or an electronic copy of the most recent public checklist of their town or city to any person requesting such copy. If a person requests an electronic copy, the supervisors of the checklist, or the city or town clerk, shall notify the person requesting the copy of the electronic format options available from which the person requesting may choose. The supervisors of the checklist or city or town clerk may only provide checklist information for their town or city. The supervisors of the checklist or city or town clerk shall charge a fee of \$25 for each copy of the public

checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist or city or town clerk shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist or city or town clerk may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.” RSA 654:31, II. HB1496 (2022).

Generally, provide an alpha voter list. An election must be pending in *ElectionNet* for the system to produce a checklist with bar codes for the voter ID. An alpha voter list contains the same information as the checklist, except no bar code. The bar code contains only the voter ID number, which is also printed as a number. A checklist with the barcode uses more pages for the same number of voters. Neither the electronic checklist nor the alpha voter list include voter history.

City Clerks Establish Uniform Practices

RSA 659:9-a provides that the city clerk shall establish uniform practices and procedures for all ward polling places. The reference to “chief elections officer” in this statute and RSA 652:14-a were removed. SB89 (2021).

Voting History in Town, School, and Village District Elections

The Secretary of State is now required to provide political parties, political committees, and candidates for county, state, or federal office who purchase lists of registered voters, with each voter's history including each “municipal election” for the preceding 2 years. RSA 654:31, IV. This requires the supervisors of the checklist to scan or enter the history of voters into *ElectionNet*. This has been required for city and town elections for some time. Where school elections are held simultaneously with town elections, it will be necessary for the clerk to include the school district in the

name of the election. Where school district or village district elections are held on a separate date from the town election, the supervisors and the clerk must collaborate to enter the election into *ElectioNet*. The supervisors must scan or enter the history of the voters who participate in the school or village district election into *ElectioNet*. Many supervisors do this currently. Those who have not been documenting the voting history for separate school and village district elections must start doing so for all elections held starting July 19, 2022. HB1010 (2022).

New Applicants for Voter Registration with No Photo ID

An applicant for registration who does not have photo identification must have a photograph taken at the polling place. Only one photograph shall be taken for the purpose of registering a new voter without a photo ID and providing the voter with a ballot. The photograph must be attached to the Qualified Voter Affidavit and a notation made on the Challenged Voter Affidavit explaining that the photo has been attached to the Qualified Voter Affidavit. RSA 654:12, III-a, RSA 659:13. HB523 (2021). If the voter has a religious objection to being photographed and completes an Affidavit of Religious Objection, no photograph is taken. RSA 659:13.

If the applicant is applying at the clerk's office or a supervisor session prior to election day using a qualified voter affidavit to prove identity, the official receiving the application must take the applicant's photo.

On election day, the Supervisors, the Moderator, and the ballot clerks should coordinate how an election day registrant who does not have photo ID will be issued a ballot. Most polling places use a "New Voter Authorization Form" issued by the Supervisors to the Ballot Clerks. The sample form has been revised to include a section where the supervisor can document that a photo has been taken and is attached to the

voter registration Qualified Voter Affidavit. Page 321.

The Moderator may want to have:

- The staff at the "No Voter ID – Start Here" table, when the photo is taken for registration, assist the applicant with also completing the Challenged Voter Affidavit that will be required to pick up a ballot and to issue the voter the "Voter ID Law Explanatory Document." Or
- The Supervisors oversee the newly registered voter completing a Challenged Voter Affidavit for no ID and issuing that new voter the Voter ID Law Explanatory Document.

Either option will allow the newly registered voter to check in and obtain a ballot more easily. It will also minimize delays at the checklist check in table.

Ensure that any voter without Photo ID is issued a copy of the one page Voter ID Law Explanatory Document. This is the one page version of #5-2022, which is posted at the polling place. This document is available in PDF in *ElectioNet* > Help > Instructions.

Notice of Death

Clerks are required to review the list of deaths for their city or town reported in the New Hampshire Vital Records Information Network (*NHVRINplus*) to search for possible matches with voter records. When a death notice exactly matches the name, date of birth and residence town/city of a voter on the checklist, *ElectioNet* sends a notice of the death to the supervisors of the checklist.

A new law requires that if the information does not match on the name, date-of-birth, and residence, but is a partial match, the Secretary of State and the clerk must send a notice of partial match of a death record to the supervisors. HB 285 (2021). Best practice, the clerk prints the voter checklist report from *NHVRINplus* and provides it to the Supervisors of the Checklist before each

session.

If the records are determined to more likely than not be two different people, no further action is required. If the records likely match, but there is no official verification that the death and voter records relate to the same person, the clerk and supervisor must follow the procedures for an unofficial notice of death. RSA 5-C:4, IV; RSA 654:37, RSA 654:37-a. HB285 (2021).

Notice of Duplicate Voter

The Secretary of State is required to examine the place and date-of-birth for all voter records and, where these data points match, to compare names seeking to identify potential duplicate voter records. The Secretary may forward a list of possible duplicate voters registered in the state to the supervisors of the checklist for the jurisdictions where registered. The supervisors must determine whether the identified registrations are for the same voter or not. This may require comparing information on the voter with colleagues in other towns/cities and the use of a 30-day letter. The supervisors should keep a record of how each potential duplicate was resolved and report the resolution to the Secretary of State. While law now mandates this more formal process, the Secretary of State has been working with local election officials to identify and resolve duplicate voters for many years. Any evidence that a voter may have voted more than once in any election must be forwarded to the Attorney General for further investigation. RSA 654:45. HB285 (2010).

Notice Of Transfer

If an applicant reports a place where they had last registered to vote on the voter registration form, the supervisors must enter that information into the statewide centralized voter registration database in a timely manner.

If the applicant reported having been registered in another state, the Secretary of State will notify the chief elections officer in the other state that the person has registered to vote in New Hampshire. If a person who is registered to vote in New Hampshire registers to vote in another state, the supervisors of the checklist will receive either a written notice or a notice on the statewide centralized voter registration database reminder screen that the voter has registered in another state. Unless the supervisors possess evidence that the notice is inaccurate, they must remove the voter from the checklist as provided in RSA 654:36. RSA 654:13. SB13 (2021).

Supervisors to Review Property Transfers

RSA 74:18 was revised to require towns and cities to provide the supervisors of the checklist with copies of the Inventory of Property Transfers. This law requires the person/entity purchasing real property to file an inventory of property transfer with the town for property tax purposes within 30 days of recording the deed or transfer of real estate with the county register of deeds. The inventory contains information on the property, the previous owner, and the new owner. The supervisors are to use the information “to facilitate periodic maintenance of the voter checklist.” RSA 74:18. HB285 (2021).

Where the Inventory of Property Transfer makes it more likely than not that a registered voter has moved out-of-town and no transfer of voter registration notice has been received, it is appropriate to send the voter a 30-day letter. Not all Inventory of Property Transfers will be evidence that the voter, who is the prior owner, has moved. Transfers may involve shifting ownership interests to family or to a trust in a circumstance where the voter continues to be domiciled at the same address. Transfers may involve land with no residence on it or land that a voter did not

live on.

The first step is to check the name of the previous owner(s) against the checklist. If the name(s) is not on the checklist, no further action is required.

If a previous owner(s) is listed on the checklist, review the information on the Inventory and any other information known to the supervisors. If it is more likely than not that a registered voter has moved out-of-town, send a 30-day letter. The decision to send a 30-day letter must be made in a properly noticed public session, by motion and vote, and documented in the minutes of that meeting. Remove the voter from the checklist only if the voter does not respond to the 30-day letter with evidence the voter continues to be domiciled in the town or ward.

The name of the new property owner(s) on the Inventory is evidence supporting a claim of domicile at that address by those owner(s) if they apply for voter registration. Otherwise, no action is required regarding the new owner(s).

A blank Inventory of Property Transfer form is available on the Department of Revenue Administration website at:

<https://www.revenue.nh.gov/forms/2016/documents/alt-pa-34-v1-0.pdf>

(last visited 8/4/2022).

Rejected – Wrong Ballot For Polling Place

In rare circumstances a voter will mark and attempt to cast a ballot that is printed for a different polling place. This can occur if ballots received by a city for one ward are inadvertently used at a different ward or if an absentee voter is sent a ballot for the wrong ward. This can occur if the clerk does not verify that all boxes of ballots received prior to the election contain the correct ballots for that town/city ward. It can also occur if two

voters from different towns/wards are together when marking their absentee ballots and mix up the ballots, sending them to the wrong towns.

Absentee voters with a disability may have the assistance of another person when marking their ballot. Otherwise, absentee voters ideally exercise their right to a secret ballot and mark their ballot in private. Nonetheless, rare instances of a ballot printed for a different polling place being cast at the voter's polling place have been reported.

If a ballot for a different town or ward is inserted into the ballot counting device, it will be rejected as the timing marks printed on the ballot will not match the ballot layout for the town/ward.

If the ballot was mistakenly issued to a voter entitled to vote in this polling place and the voter is still present, the ballot must be spoiled and a correct ballot issued to the voter to mark and cast.

If the voter who cast the ballot is unknown or not present (absentee voter), the ballot must be set aside for hand counting the votes on the ballot that are common to both polling places. The moderator should insert the wrong ballot in a large envelope or folder to help flag it for special attention during hand counting. Similarly, in a hand count polling place, if a wrong ballot is discovered in the hand count process, the ballot nonetheless is counted for the races/questions in which the voter was entitled to vote.

For example all ballots in the state will have the race for Governor. In two out of three election cycles all ballots in the state will have the race for United States Senator. Examine the other races on the ballot, in many cases the ballot marked by the voter and the ballot that should have been issued to and marked by the voter will have the same races with the same candidates. Count the votes marked on the ballot where the races and candidates on

the ballots match.

For questions, except for local questions that are specific to one town or city, questions are the same statewide. Count the vote marked on the ballot for all questions that appear on the ballot the voter should have received and marked.

Do not count the vote(s) marked on the ballot if the vote(s) is for a candidate/race or question not listed on the ballot the voter should have received. For those races or questions the marked (wrong) ballot must be counted as an undervote.

The process used to set aside the wrong ballot for the polling place and hand count it must protect the voter's right to a secret ballot.

Photographs within Guardrail

It has long been prohibited for voters to allow their marked ballot to be seen by any person with the intention of letting it be known how they are about to vote or how they have voted. RSA 659:35. A new law prohibits taking a photograph within the guardrail of another voter or another voter's ballot. Photographs may be taken from outside the guardrail of general polling place activity. RSA 659:45-a. SB89 (2021). However, a court decision requires that ballot selfies – a photograph taken by a voter of their own marked ballot to be posted on the internet - must be allowed. *Rideout v. Gardner*, 838 F.3d 65, 75 (1st Cir. 2016). It is appropriate to encourage that ballot selfies be taken inside the voting booth, where there is no risk of photographing other voters or their ballot.

Disqualification of Election Officials

Two statutes govern disqualification of election officials in certain circumstances, RSA 659:58 and RSA 658:24. Both statutes are revised by SB 242.

“Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than a position as an election official, is to be disqualified from performing duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than the position of an election official, shall be disqualified from handling of marked ballots and counting of votes pursuant to RSA 659:58.” RSA 658:24. SB242 (2021).

“Any election official who is also a candidate for office, other than a position of an election official, shall not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he is a candidate. Such official shall disqualify himself from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the election official who is disqualified until such official may properly return. The moderator may assign any election official disqualified pursuant to this section to other duties not related to the tabulation of votes.” RSA 659:58. SB242 (2021).

Together, these statutes provide that:

- All election officials and inspectors of election who are on the ballot seeking only an election official office may perform their election official duties.
- All election officials on the ballot seeking an office other than a position as an election official, are disqualified from handling marked ballots, counting votes, and may not be within the area designated for ballot counting within the guardrail during the counting of votes for an office for which he or she is a candidate.
- A person who is not a moderator, clerk, selectman, inspector of elections, or supervisor of the checklist, but whose name appears on the ballot for an office other than as an election official, is disqualified from performing duties as an election official in

that election. For example, a candidate for State Representative, who is not a moderator, clerk, selectman, inspector of election, or supervisor, cannot serve as a deputy moderator, assistant clerk, ballot clerk or other Pro Tem election official.

- An Inspector of Election (Ballot Clerk) whose name is on the ballot for either an election official or other office is not disqualified from serving as a ballot clerk, but may not handle marked ballots or count ballots.

When an election officer is disqualified, the moderator appoints an assistant, who must take the oath of office, to fulfill any duties regarding the tabulation of votes.

The “tabulation of votes” is the counting of votes, whether hand counting ballots or the printing of the ballot counting device results tape. It would also include the aggregation of results from the tapes and hand counting, as well as reconciliation.

Duties “not related to the tabulation of votes” would include clearing voting booths of signs, packing away voting screens, assisting with counting the number of voters marked on the checklist as having voted or inventorying unused ballots.

Any election official whose name is on the ballot for any office who does not voluntarily recuse himself or herself from performing their election duties, must exercise due care to avoid electioneering while in the performance of his or her duties. RSA 659:44 makes it a misdemeanor for an election officer to electioneer while in the performance of official duties. Election officials in this circumstance should have a prepared response to questions or comments that avoids saying anything that is designed to influence the vote of any voter or which would appear to a reasonable third party to be electioneering.

Term of Office – Rockingham County Officials

County officers, the Sheriff, County Attorney, County Treasurer, Register of Deeds, and Register of Probate are elected for two year terms, except in Rockingham County. RSA 653:1, V was amended to make the term of office for these officials in Rockingham County four years in length. The Rockingham county officers elected in 2022 will hold office until 2026. (HB 1367) 2022.

Storage of Sealed Boxes of Ballots

RSA 659:98 has been amended to require that sealed boxes of ballots be stored in an area under the direction of the clerk.

“The clerk or the clerk’s designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall. Containers containing ballots and absentee balloting materials that have been sealed after an election according to instructions provided by the secretary of state shall be stored in a location under the direction of the clerk. A log shall be maintained by the clerk specifying the location and the containers at the location. Once stored, the containers shall be accessible only to individuals working under the direction of the town clerk, as required for recounts, or as necessary for the secretary of state to verify the container storage. When the containers are removed to allow for destruction of ballots in accordance with RSA 33-A:3-a, the destruction of the ballots and absentee balloting materials shall be the final entry in the log.” RSA 659:98. HB1457 (2022).

Clerks must follow these requirements starting on election night for all ballots and materials sealed into boxes. Clerks will also need to secure and log the box used for unopened absentee ballot return envelopes that are received after the election. Make a log entry showing a box (or envelope) that is being used to securely hold returned absentee ballot envelopes. This box may be kept in a different location, for example a secure place in the clerk’s office, from where the other sealed boxes of ballots are stored.

If your ballots are picked up for a recount, ensure all absentee ballot envelopes received

after the election up to the time when the pick-up occurs are secured in a sealed box, documented in the log, and turned over to the Secretary of State's staff making the pickup.

In that event clerks will need to start an additional container to securely store returned absentee ballot envelopes that arrive after the Secretary of State's office makes the pick-up. When it is unlikely that any further absentee ballots will be returned, the secure container must be sealed with an election night seal, the entry made in the log updated, and the sealed box secured in accordance with this law.

This statute requires that the stored, sealed boxes of ballots "shall be accessible only to individuals working under the direction of the town clerk . . ." Towns and cities currently using shared storage space, where the ballot boxes are comingled with materials stored by other town/city departments, are required to:

- Use a different space that is exclusively under the direction of the town clerk; or
- Modify a section of the storage space to make it secure and place that section of the space under the direction of the clerk.

Under the direction of the town clerk means that the clerk controls or has knowledge of who has access to the space used for ballot storage. The law does not prohibit storing other materials in the space used for storing ballots. Other materials from the clerk's office stored there by or under the direction of the clerk are permitted. Storage of materials by other town departments would require that the storage be under the direction of the town clerk. Best practice is to have the clerk or clerk's staff be directly involved in providing admittance to the area and directly overseeing the placing or removing of materials from storage.

The Clerk must maintain a log "specifying the location and the containers at the location." RSA 659:98. The log to use for this purpose is available in *ElectioNet* > Help > Instructions. A sample log is at page 399 in this manual. The log must document:

- The total number of boxes, including both the red ink label "ballots" and the blue ink label "Absentee Voting Materials" boxes. This number must match the number written onto the sealing label for all boxes in the "y" position. That label requires entries where it reads *_x_ of _y_ boxes*, with *x* being a sequential number, 1 for the first box, 2 for the second, etc. Use one numbering sequence for all boxes. The number written in the "y" position must be the same on all labels and must equal the total number of boxes (ballots and absentee voting materials);
- The initial storage of the sealed boxes of ballots and absentee voting materials;
- All access made to the sealed boxes, for example removal of the boxes of ballots from a town election for a town recount and then their return to storage; and
- The transfer of custody of the boxes to the Secretary of State for purposes of a recount; or
- The removal of the boxes from storage and their details of their destruction.

The Secretary of State's instructions for the log requires the signature of the clerk, deputy clerk, or assistant clerk and at least one witness for each entry. The log must be kept at the clerk's office. The log is a public document subject to disclosure under the Right-to-Know law. The log should be preserved for the same period as is required for the marked checklists

from the election, 7 years following the election or until the contest is settled and all appeals have expired, whichever is longer.

Vacancies in School District Offices

School election law was revised to establish the same rule that has long existed in town election law, that any vacancy that occurs on or after the first day of the filing period is filled by election at the following year's election. *"Any vacancy which occurs between the beginning of the filing period and the district election shall not be filled by official ballot until the annual district election the following year."* RSA 671:33, V. HB409 (2021). In this circumstance the vacancy is filled by the body or official having statutory authority to fill a vacancy, with the appointee serving for one year, until someone is elected to fill the position

Best practice is for a person resigning to submit a written resignation to the governing body and if some other official or entity has authority to make an appointment, to that authority. If the person resigning does so orally and refuses or neglects to submit the resignation in writing, best practice is for the governing body to vote to accept the oral resignation and ensure that it is noted in the body's public minutes. While the date on the written resignation may be treated as the date of the resignation, best practice is to treat the date the governing body accepts the resignation, by vote at a properly noticed public meeting, as the date of the resignation. Consult town/school district legal counsel if a question arises as to the effective date of a resignation.

RSA 671:33 was also amended to require that in a cooperative school district with a school board vacancy "A member-at-large shall also be included as a representative of the same town." HB409 (2021).

Village Districts – Right-to-Know

RSA 52:11-b affirms that public bodies of a Village District are subject to the Right-to-Know law.

"Every legislative body, governing body, board, commission, or committee of any village district established under this chapter shall be deemed a "public body" under RSA 91-A and shall be subject to all applicable provisions of that chapter." RSA 52:11-b. SB84 (2021).

Voter Registration Planning

RSA 186-C:8-a requires that schools include in all Individualized Education Programs or Section 504 plans for students age 17 or older a discussion of "voter registration as an appropriate community living/citizenship training goal or competency" Local election officials have no responsibilities under this new law, but may be contacted by educators for information. RSA 186-C:8. HB 1594 (2022).

Party Column Rotation – General Election Ballots

The method of randomly selecting ballot positions for party columns on a state general election ballots now uses random selection of state senate districts. The Secretary of State conducts the random selection and implements the resulting column positions. Local election officials have no responsibilities. HB 514 (2022).

Legislation Effective in 2023

Legislation passed in 2022 which does not take effect until 2023 is purposely omitted from this edition of the Election Procedure Manual. This manual focuses on conducting elections in 2022. Guidance on laws taking effect in 2023 will be issued after the 2022 General Election. SB 348 (2022), SB405 (2022) (sections 1-4); SB418 (2022).



THE STATE OF NEW HAMPSHIRE

REGISTERING TO VOTE IN NEW HAMPSHIRE



This guidance is updated on July 7, 2022. Do not rely on previous versions.

A person must meet the following to register and vote in New Hampshire:

- 18 years of age or older on election day;
- A United States citizen; and
- Domiciled¹ in the town or ward where the person seeks to vote.

You need to provide proof of your identity, age, citizenship, and domicile to register. Proof can be either by documents or by affidavit if you do not have documents with you. You may present documents in paper or electronic form.

- A driver's license or non-driver ID from any state is proof of identity and age.
- A birth certificate, U.S. Passport/Passcard, or naturalization document is proof of citizenship.

Note: A New Hampshire REAL ID compliant driver's license is NOT proof of U.S. Citizenship.

You can prove your identity, age, and/or citizenship by signing a Qualified Voter Affidavit, under oath, in front of an election official if you do not have documents.

You will also need to prove that your domicile is in the town or ward where you intend to vote. Proof can be either by a document or by affidavit. The law requires a document that "manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government." RSA 654:1².

Many types of documents fill this requirement. The following documents are examples of acceptable proof of domicile. You need only one document:

- A New Hampshire driver's license or non-driver ID showing your current domicile address;
- A document from the school that you attend showing that you live in campus housing. A document issued by the school that has your name and the address

¹ "The fundamental idea of domicile is home." *Felker v. Henderson*, 78 N.H. 509, 511 (1917). More information regarding what the term "domicile" means is on page 3 of this document.

² Senate Bill 3 did not amend RSA 654:1.

Establishing a Domicile/Residence in New Hampshire

(on or off campus) where you live fills the requirement. Many colleges and universities provide students with acceptable documents.

- Students also may use a smart phone or other electronic device to show the election official a page from the college or university's official student electronic records website. The web page must list the student's name and dorm assignment or off-campus residence address. Some universities have established an on-line web page resource specifically for this purpose. Consult your school officials if you cannot find and display this information from your school's system.
- A note signed by a school official, including a Resident Assistant or other person who supervises your dorm, fills the requirement under RSA 654:1, I-a.
- A rental agreement, lease, or similar document that shows your name and the address of your domicile. The document must show your domicile on Election Day.
- A document showing that you own the place you claim as domicile, such as a deed, property tax bill, or other similar document that has your name and address.
- A New Hampshire resident motor vehicle registration showing your domicile address.

A voter photo ID issued by the NH Division of Motor Vehicles at no cost to you.

- Ask your town or city clerk or the Secretary of State's office for a voucher and present it to the Division of Motor Vehicles (DMV) to get a voter ID card. Voter photo ID cards can only be used for voting purposes,
- Information on the documents you will need to present to the DMV is available here: <https://www.dmv.nh.gov/drivers-licensenon-driver-ids/apply-your-first-drivers-licensenon-driver-id> (Last Visited 8/4/2022)
- A document showing that you enrolled a dependent minor child in a public school that serves the town or ward of your domicile.
- Any state or federal tax form, other government form, or government issued identification that shows your name and your domicile address.
- Canceled mail addressed in your name to your domicile address that shows the U.S. Postal Service delivered the mail to you at that address.
- Any form from the U.S. Post Office showing your name and the physical address where you are domiciled (not a Post Office Box). The confirmation you received by e-mail or U.S. mail when you reported your new address to the Post Office fills the requirement.
- A public utility bill, such as an electric, telephone, water, gas, or other utility bill, with your name and domicile address on it.
- A note from a homeless shelter or other service provider located in the town or ward where you will vote that confirms they will receive U.S. mail sent to you at that address.

Establishing a Domicile/Residence in New Hampshire

- You may also use any other document that shows proof of your intent to make the place you claim your voting domicile.

You may call or visit your town or city clerk's office if you have any questions about proof of domicile. Look up your clerk's address and contact information here: <https://app.sos.nh.gov> (Last visited 8/4/2022)

You can prove domicile by signing a Domicile Affidavit if you do not have a document proving your domicile.

Please bring any documents you have establishing your qualifications with you when registering to vote. If you do not have documents or forget to bring them:

- YOU WILL BE ABLE TO REGISTER TO VOTE;
- YOU WILL BE ABLE TO VOTE; and
- YOU WILL USE A REGULAR ELECTION DAY BALLOT THAT ELECTION OFFICIALS WILL COUNT ON ELECTION DAY.³

Do not hesitate to ask at the town/city clerk's office or the supervisors of the checklist at the polls on Election Day if you have any questions about how to register to vote. Your local election officials will help you.

Absentee Voter Registration

You may register to vote by absentee (by mail) if one of the following is true:

You will be absent from the town or city on the dates/times when the Supervisors of the Checklist meet to receive voter registration applications. The supervisors are required to meet on a date:

- 6 to 13 days before the September 13, 2022 primary and
- 6 to 13 days before the November 8, 2022 general election.
- Absence includes an employment commitment that prevents you from attending a session of the supervisors. The term "employment" includes the care of children and infirm adults, with or without compensation;
- You cannot appear in public because of observance of a religious commitment;
- You are unable to vote in person because of a physical disability;
- You are a victim of domestic violence and have an active protective order or are participating in the Attorney General's address confidentiality program; or
- You are a person confined to a penal institution awaiting trial or because of a misdemeanor conviction. A person incarcerated because of a felony conviction is not eligible to register or

³ Citizens of New Hampshire who moved here from another state may have experienced casting a provisional ballot in their prior state when they failed to bring documentation of their qualifications or Photo ID to the polls. New Hampshire does not use a provisional ballot. Everyone who fills the requirements to register votes on a ballot election officials count on election day. New Hampshire does not have a durational residency requirement – you can move into New Hampshire, establish your voting domicile on election day, register, and vote. New Hampshire has election day voter registration at the polling place.

vote while incarcerated.

Click here to download the "[Absentee Voter Registration Requirements and Instructions](#)" for a step-by-step guide regarding how to register absentee. (Last visited 8/4/2022)

<https://www.sos.nh.gov/elections/voters/absentee-ballot-instructions-and-applications>
(Last visited 8/4/2022)

Accessible Electronic Absentee Voter Registration

You may register through an accessible electronic absentee voter registration process if you meet the State's requirements and qualifications to vote and are unable to register to vote in person because of a print-based physical disability (e.g., blindness). A "Print Disability" is a disability that prevents a voter from marking a ballot or completing elections forms using pen and paper. You should request an Accessible Absentee Voter Registration Affidavit and an Accessible Standard Voter Registration form directly from your city or town clerk. The Application for an Accessible Electronic Absentee Ballot also allows you to request the electronic forms necessary for absentee electronic voter registration.

[Click here to download the Application for an Accessible Electronic Absentee Ballot](#)
(Last visited 8/4/2022)

<https://www.sos.nh.gov/elections/voters/voting-disabilities>

(Last visited 8/4/2022)

More Detailed Information regarding Registering to Vote

What is "domicile"?

"The fundamental idea of domicile is home." *Felker v. Henderson*, 78 N.H. 509, 511 (1917).

"An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves." RSA 654:1, I.

"A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I." RSA 654:1, I-a.

"A voter can have only one domicile for voting purposes." RSA 654:2, I.

"RSA 654:1, I, like common law domicile, requires physical presence and the intent to make one's place of physical presence one's home (that "one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government")." *Casey v. N.H. Secy. of State*, 173 N.H. 266, 274 (2020).

Establishing a Domicile/Residence in New Hampshire

Under New Hampshire law, the terms “domicile” and “residence” are equivalent. Establishing a voting domicile may also trigger certain other residency obligations under state law. These may include the obligation to obtain a New Hampshire driver’s license and/or motor vehicle registration. For more information on this, please visit:

<https://www.sos.nh.gov/elections/information/faqs/voter-registration-and-motor-vehicle-law>

(Last visited 8/4/2022)

Disclaimer

The complete election laws are available on-line. A court order, however, struck down all changes to the law in Senate Bill 3 (2017). The on-line election laws currently show the enjoined language. Do not rely on the on-line law without referring to the court’s decision and Senate Bill 3 to determine the current law. The on-line election laws do not reflect the law presently in effect for voter registration.

July 2022

Frequently Asked Questions About ESTABLISHING A DOMICILE/RESIDENCE IN NEW HAMPSHIRE

The Secretary of State, Attorney General, and Commissioner of the Department of Safety published these Frequently Asked Questions (FAQs) on their web sites. Clerks, Supervisors, and Moderators are encouraged to print this document. If asked any of these questions, use the answer provided. This is a public document. You may provide anyone a copy.

This joint guidance is provided in consultation with the Attorney General's Office. The following guidance on voter registration is provided by the Secretary of State. The following guidance on the motor vehicle laws is provided by the Commissioner of the Department of Safety.

For more information see Registering to Vote in New Hampshire set forth above.

For election-related questions, please contact:

- Secretary of State: elections@sos.nh.gov
- Attorney General: electionlaw@doj.nh.gov

For more information about becoming a new resident for vehicle registration and driver license purposes, please visit: <https://www.dmv.nh.gov/vehicles-boats-or-titles/vehicle-registrations/new-resident-new-hampshire>

(Last visited 8/4/2022)

For motor vehicle related questions, please contact:

- e-mail: NH.DMVHelp@dos.nh.gov
- Driver Licensing (603) 227-4020
- Vehicle Registration (603) 227-4030

FREQUENTLY ASKED QUESTIONS

Question 1

Q. Are the terms “domicile” and “residence” equivalent?

A. Yes. The terms “domicile” and “residence” are equivalent. Even though RSA 21:6-a and RSA 654:1 contain different words, they convey the same basic concept. When a person makes a town or ward in New Hampshire his or her principal place of physical presence to the exclusion of all other places, that person has established a domicile/residence.

Question 2

Q. How do I establish domicile/residence in New Hampshire?

A. You make a town or ward in New Hampshire your principal place of physical presence to the exclusion of all other places. Your actions in New Hampshire reveal your intent to make a place in New Hampshire your domicile/residence. Such actions include, but are not limited to, purchasing or leasing a principal (i.e. primary) house or apartment, obtaining a resident vehicle

Establishing a Domicile/Residence in New Hampshire

registration, placing dependent children in a publicly funded school, registering to vote, paying taxes applicable only to residents, etc. RSA 21:6; RSA 21:6-a; RSA 259:23; RSA 654:1.

For College/University students seeking to establish a domicile/residence in New Hampshire please see Frequently Asked Question 8 for more information. See RSA 654:1, I-a.

Question 3

Q. If I establish a domicile/residence in New Hampshire and drive in New Hampshire, do I have to get a New Hampshire driver's license?

A. Yes. A person who establishes a domicile/residence in New Hampshire and drives in New Hampshire must obtain a New Hampshire driver's license within 60 days of establishing his or her domicile/residence. See: RSA 21:6; RSA 21:6-a; RSA 263:1; and RSA 263:35. Your actions in New Hampshire reveal your intent to make a place in New Hampshire your domicile/residence. Such actions include, but are not limited to, purchasing or leasing a principal (i.e. primary) house or apartment, obtaining a resident vehicle registration, placing dependent children in a publicly funded school, registering to vote, paying taxes applicable only to residents, etc. RSA 21:6; RSA 21:6-a; RSA 259:23; RSA 654:1.

For information on what satisfies proof of domicile/residence for the purposes of obtaining a driver's license please visit:

- <https://www.dmv.nh.gov/drivers-licensenon-driver-ids/real-id> (For US Citizens to obtain a Real ID); (Last visited 8/4/2022) or
- <https://www.dmv.nh.gov/drivers-licensenon-driver-ids/apply-your-first-drivers-licensenon-driver-id> (for non-Real ID licenses); (Last visited 8/4/2022) or
- <https://www.dmv.nh.gov/drivers-licensenon-driver-ids/non-us-citizen> (for non-citizens to obtain a Real ID-non-citizens may not register to vote or vote) (Last visited 8/4/2022)

For frequently asked questions regarding how to register to vote in New Hampshire please visit: <https://sos.nh.gov/elections/information/faqs/>. (Last visited 8/4/2022) For examples of documents showing actions recognized in law as establishing a domicile/residence, see Registering to Vote in New Hampshire above.

Question 4

Q. If I establish a domicile/residence in New Hampshire and own a vehicle used in New Hampshire, do I have to register that vehicle?

A. Yes. A person who establishes domicile/residence in New Hampshire and owns a vehicle used in New Hampshire must register the vehicle in New Hampshire within 60 days of establishing his or her domicile/residence. RSA 261:45. You may register your vehicle with your local town or city officials. The fee for vehicle registration is in part for the use of the town or city where the owner resides. See: RSA 261:153; RSA 261:165. These funds are available to help cover the costs of maintaining roads. Registering a car you own and use in New Hampshire, in part, is paying your share of road maintenance costs.

Your actions in New Hampshire reveal your intent to make a place in New Hampshire your domicile/residence. Such actions include, but are not limited to, purchasing or leasing a principal (i.e. primary) house or apartment, obtaining a resident vehicle registration, placing dependent children in a publicly funded school, registering to vote, paying taxes applicable only to residents,

Establishing a Domicile/Residence in New Hampshire

etc. RSA 21:6; RSA 21:6-a; RSA 259:23; RSA 654:1.

Question 5

Q. If I establish domicile/residence in New Hampshire, hold a driver's license from another state, but do not drive in New Hampshire, do I have to get a New Hampshire driver's license?

A. No. A person who establishes a domicile/residence in New Hampshire and does not drive in New Hampshire is not required to obtain a New Hampshire driver's license. RSA 259:24; RSA 259:25; RSA 263:1; RSA 263:35.

Question 6

Q. If I establish domicile/residence in New Hampshire and drive a motor vehicle in New Hampshire owned by a person who resides in another state, do I have to register that vehicle in New Hampshire?

A. It depends. Only the owner of a motor vehicle can register that vehicle. For registration purposes, an "owner" of a motor vehicle is either a person holding title to that vehicle or a person having the exclusive right to the use of that vehicle for a period of greater than 30 days. RSA 259:72, I. Thus, if you do not have the exclusive right to use the vehicle for a period of greater than 30 days, you do not need to register the vehicle in New Hampshire. RSA 259:72, I. If, however, you have the exclusive right to the use of that vehicle for a period of greater than 30 days, you must register that vehicle in New Hampshire, even if you do not hold title to that vehicle. RSA 259:72, I.

Question 7

Q. Do I need a New Hampshire driver's license to register to vote and to vote?

A. No.

To vote you must be:

- 18 years of age or older on election day;
- A United States Citizen;
- Domiciled in the town or city ward where you plan to vote.

RSA 654:1.

You should bring proof of these qualifications to register. If you do not have proof or forgot to bring proof, then you can sign an affidavit attesting to any of these qualifications.

No one can be denied the right to register to vote or vote for being out of compliance with the requirements of the motor vehicle code.

Question 8

Q. Can I register to vote and vote where I attend College/University in New Hampshire?

A. Yes. In New Hampshire, a person attending College/University, or any other institution of learning, may register to vote and vote in the town or ward where he or she has established his or her domicile/residence while attending school. RSA 654:1.

New Hampshire law explicitly recognizes campus housing, including a dorm room, as a lawful domicile. RSA 654:1, I-a. A useful list of documents you may use to register to vote can be found above in Registering to Vote in New Hampshire.

Establishing a Domicile/Residence in New Hampshire

A student residing off campus, who establishes a domicile/residence in New Hampshire, may only register to vote in the town or ward where he or she resides. RSA 654:1.

Question 9

Q: I have registered to vote in New Hampshire, and I have an out-of-state driver's license, but I do not drive here. Do I need to do anything?

A. No. Anyone registering to vote in New Hampshire is indicating that he or she has established a domicile/residence here. A person who establishes a domicile/residence in New Hampshire and does not drive in New Hampshire is not required to obtain a New Hampshire driver's license. RSA 259:24; RSA 259:25; RSA 263:1; RSA 263:35.

Question 10

Q: I have registered to vote in New Hampshire, but I have an out-of-state driver's license and I drive here. What should I do?

A: Anyone registering to vote in New Hampshire is indicating that he or she has established a domicile/residence here. Once one establishes domicile/residence in New Hampshire, New Hampshire law requires that person to take certain actions. Under the motor vehicle code, a person has 60 days upon establishing domicile/residence to obtain a New Hampshire driver's license, if they drive here, and to register a vehicle, if they own a vehicle in the state.

Question 11

Q. Can I obtain a New Hampshire driver's license using my campus housing (e.g. my dorm room) as the "address where you live" on the driver's license application?

A. Yes. The Division of Motor Vehicles accepts proof of such residence in order to register your vehicle and/or to obtain a driver's license. A list of other documents that may be used as proof of residence can be reviewed online at:

<https://www.dmv.nh.gov/drivers-licensenon-driver-ids/real-id> (to obtain a Real ID) Or
<https://www.dmv.nh.gov/drivers-licensenon-driver-ids/apply-your-first-drivers-licensenon-driver-id> (for non-Real ID licenses) (Last visited 8/4/2022)

RSA 21:6; RSA 259:88; RSA 263:5-e.

Any person who already holds a New Hampshire driver's license or has a vehicle registered in New Hampshire has a duty to notify the Division of Motor Vehicles within 30 days of a change to his or her domicile/residence or his or her mailing address. RSA 263:9.

June 2020

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Protecting our electronic systems from malicious attempts to gain access is an important responsibility for all election officials, particularly those who have login credentials for *ElectioNet*. Simple safeguards play an important role in keeping our systems safe. The Elections Division Help Desk staff and your town or city IT Manager/staff are available to help. When you are unsure or suspicious, always seek assistance before responding to an e-mail or request.

Adversaries are constantly using new tactics to try to gain access to secure computer systems and to steal your log-in credentials or money. There are no unreasonable questions; better to be safe than to be sorry.

Do not open attachments or click on links unless you know it is legitimate and from someone you know and trust. If any question exists – call or e-mail the sender using a phone number/e-mail address from your records. Do not use information from the suspect e-mail. Just opening an attachment or clicking a link risks downloading malicious code, often in a process that will be invisible to you. Malicious links or attachments can cause or include:

- Ransomware – locks up your data, seeks a ransom payment
- Malware – does damage to your files or computer software
- Keystroke Recorder – captures and reports back your keystrokes, what you type into your computer – allows criminals to steal your

usernames/passwords; and

- Data theft – gains access to and steals private voter data or your office/personal financial data.

DEFEND AGAINST PHISHING

A “phishing” e-mail claims to come from a recognized source and asks you to verify your account, re-enter information, or to make a payment. Phishing e-mails often have the look and feel of e-mails from a legitimate source. Malicious e-mails may contain a governmental or bank logo. Malicious e-mails and web sites may have addresses that at first glance are identical to the legitimate address of someone you regularly correspond with. Careful examination may reveal a one or two character difference, that will divert your information to the criminals.

The objective of the scam is to trick you into providing the details the attackers need to access your account with *ElectioNet*, your e-mail system, or other local systems you use for election administration and other purposes. Beware, do not respond to generic greetings or requests for information that the sender should already have.

Many sophisticated phishing attempts will use information about you obtained from public records or scammed from others. These malicious e-mails may be called “spear phishing.” They will falsely build your confidence that the message is legitimate, by including things you think only a legitimate sender would know.

Beware of any e-mail seeking information or encouraging you to open an attachment or click on a link, where the e-mail contains typos, poor use of English, or “alarming” threats or ultimatums. Not all malicious e-mails will have these flaws, but their presence is a red flag warning.

If you feel the need to respond at all, using contact information from a source other than the e-mail, contact the legitimate sender to determine if the request is legitimate. It is safer to verify by phone than by e-mail. Be certain to look up the phone number from your own records or an independent source.

SPOOFING

Malicious e-mails will sometimes fake the sending address, making it appear to be a legitimate e-mail from a recognized source. These attackers use an e-mail that is very similar to that of a legitimate sender, often to request payments or data from you or your office. If you are uncertain, verify the legitimacy of the request with the sender using contact information obtained from a source other than the e-mail.

PHARMING

Attackers, in effect, hijack a legitimate website’s domain name and redirect you to a fraudulent site. Check that the web address (URL) of any site asking for secure data is authentic – look for the secure certificate. Call the legitimate source to verify that the request is legitimate.

If you receive an *ElectionNet* or election related e-mail or end up on a website that is suspicious, call the Elections Division Help Desk before responding.

WHALING

Whaling is a realistic looking e-mail, claiming to come from a legitimate looking source, such as “Dropbox” or other file storage site, which requests you to click through their “secure” account/site to download or view a shared document. Guard against whaling by refusing to click on any unfamiliar link and refusing to use file transfer systems that your

IT manager did not set up or authenticate.

Criminals will use other malicious e-mails to gain access to your e-mail and then monitor it for a message from someone you do business with that indicates you will be sending money or log-in credentials. They will then send a message that appears to come from that same source, but which redirects your reply or links you to a web site they use to steal your money, log-in credentials, or other valuable information. Documented cases exist in New Hampshire where criminals learned through e-mails that someone would be using an electronic transfer from their bank of significant funds. The criminals sent an official looking e-mail with a bank routing number for the transfer. The person had their bank send the funds to the account provided. It was an account opened by the criminals, which they promptly emptied, effectively stealing the money.

RANSOMWARE

Ransomware is a type of malicious software cyber actors use to deny access to systems or data. The malicious cyber actor holds systems or data hostage until the ransom is paid. After the initial infection, the ransomware attempts to spread to shared storage drives and other accessible systems. If the demands are not met, the system or encrypted data remains unavailable, or data may be deleted.

HOW DO I PROTECT MY COMPUTER?

Protect your computer, your data, and your voters’ data by backing up all important information, store it offline and on a separate device (CD or Memory Stick)

For *ElectionNet* data, the state has multiple levels of backups – your local responsibility is to save the checklist for your town regularly:

Before the election is entered into *ElectionNet* – save the Alpha List to a PDF file each month and after each supervisor’s session;

After the election is entered into *ElectioNet* – save the Checklist:

- monthly and after each supervisor’s session
- 4 weeks prior to the election save the checklist weekly: and
- 2 weeks prior to the election save the checklist daily.

Store backups on a separate storage device. Keep your software current – install windows and browser publisher’s updates as they become available. Install an anti-virus program sold by a major vendor. Avoid free or discount cost anti-virus programs. Keep the anti-virus software updated. Set the software to conduct regular scans of your system automatically.

NOTE: As of January 14, 2020 Windows 7 operating system is no longer supported. We highly recommend you use Windows 10 or higher.

NOTE: As of June 15, 2022, the web browser Microsoft Internet Explorer is no longer supported by Microsoft. browser is Microsoft Edge. Edge can be set to operate in “Explorer” mode. It will be necessary to use this setting to fully use *ElectioNet*. Instructions can be obtained from the Elections Division Help Desk.

Users of Windows 10 & 11 Home edition will have to rerun the procedures provided by the Elections Division Help Desk every 30 days for their system to be fully functional with *ElectioNet*. This is not required for “Pro” version users.

HOW DO I KNOW MY COMPUTER IS INFECTED?

Typically you will receive a ransom message. Ransomware may direct a user to click on a link, through an email, to pay a ransom; however, the link may be malicious and could lead to additional malware infections. Some ransomware variants display intimidating messages, such as:

“Your computer was used to visit websites with illegal content. To unlock your computer, you must pay a \$100,000 fine.”

“You only have 96 hours to submit the payment. If you do not send money within provided time, all your files will be permanently encrypted and no one will be able to recover them.”

WHAT TO DO IF INFECTED WITH RANSOMWARE?

Isolate the infected computer immediately. Disconnect from any networks or attached storage devices. Power-off until an IT professional can assist with assessing the device.

Have backups assessed to ensure they are not infected before using them to re-establish your files. Change all online account and network passwords using a different computer, not the infected computer. Notify law enforcement and the SOS Elections Division.

PHYSICAL SECURITY IN YOUR OFFICE

Position your computer monitor so that it cannot be viewed by the public or others who do not have access to *ElectioNet* or other secure tools that you use. Keep any paper record of your log-in credentials and account numbers in secure storage. Ensure that Voter Registration Forms and other election records that contain nonpublic information are kept secure and are put away when you will be away from your desk. Have appropriate locks on file cabinets, desks, and the door to your office. Maintain careful and documented control of keys.

ELECTION^{NET} DATA REQUESTS

Take time to get it right. Stop and review whether the person making the request has a legal right to the information being requested. If you have questions, call the Elections Division Help Desk (603)271-8241.

See Cyber Security Terms at page 301.

BE CONFIDENT IN YOUR NEW
HAMPSHIRE ELECTION

We are A Paper State!

instill confidence in the fairness and accuracy
of our elections in your voters

Clerks receive their paper absentee and official ballots from the Secretary of State. Clerks check the paper ballots to ensure they are correct and confirm receiving an appropriate number of ballots. Checklists are printed out on paper and certified by the Supervisors. Moderators run the “zero” tapes to prove there are no votes for any candidates in the ballot counting device memory card before voting starts. Candidates are always listed on the zero and results tapes as they appear on the ballot. The moderator checks for any anomalies on this tape. The device is not used if anomalies are found.

In a hand count town, before the first ballot is cast, the Moderator opens and displays the interior of the ballot box to all present, showing that the ballot box is empty.

Voters mark their choices on the paper ballot. Most ballots are counted by a device on election night, but all ballots are hand counted by humans at a recount.

Moderators report the election results on paper using the Return of Votes form. This results report is transported by the NH State Police to the State House in Concord.

It is very important that election officials understand cyber threats and use all available cyber security tools and protocols. However, our use of paper voter checklists, paper ballots and reporting results on paper justifies confidence in New Hampshire’s elections.

TRUSTED SOURCES

You have 3 trusted sources:

- Clerks, Moderators and Supervisors
- Secretary of State’s Office
- Attorney General’s Office

Understand cyber security and our paper based election system. Explain the benefits to

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I. VOTER REGISTRATION

Voter Registration Overview

The purpose of voter registration in New Hampshire is to allow qualified citizens the right to vote. Any person registering to vote shall be:

For those registering prior to an election, one

must be at least 18 years of age by the date of the next election; for those registering on election day:

- The applicant must be at least 18 years of age on that date;
- A United States citizen;

- Domiciled in the town or city ward in which the applicant is registering to vote; and
- Not otherwise disqualified to vote.

A voter registration application form is required by statute and used throughout the state. RSA 654:7. Page 344.

The checklist contains the name of every qualified voter who has registered in a town/ward. The supervisors of the checklist in towns and the supervisors/registrars in cities prepare and maintain the checklist. Registrars is a title used in some cities for their equivalent of a supervisor. The board of supervisors or registrars are responsible for all additions or changes to the checklist.

SUPERVISORS OF THE CHECKLIST

Applicants for voter registration can apply with the supervisors of the checklist when they hold a public session. The board in each town or city is composed of a minimum of three members who are legal voters in the town or city, each serving a 6-year term unless otherwise set by a city charter. Supervisors and registrars are elected at city and town elections every other year unless otherwise set by a city charter. RSA 41:46-a.

TOWN AND CITY CLERKS TO ACCEPT APPLICATIONS

In addition to registering with the supervisors of the checklist, town and city clerks are required to accept applications from people who wish to become registered voters. However, only the supervisors can make the final decision to add a name to the checklist. The clerk must forward all applications to the supervisors for consideration at the supervisors' next meeting. RSA 654:8; RSA 654:9.

ELECTION^{NET}, THE STATEWIDE VOTER REGISTRATION SYSTEM

Federal law requires that registration records on all voters in the state be entered into a single statewide computerized voter registration system. 52 U.S.C. § 21083. All

cities and towns are currently using a single system named *ElectioNet*. Checklists for state-federal primaries, general elections, and all town, city, school and village district elections shall be produced from *ElectioNet*. RSA 654:45.

Upon receipt of new voter registrations, supervisors of the checklist must enter that information into *ElectioNet* in a timely manner. Update the checklist data in *ElectioNet* no later than the session of the supervisors of the checklist required 6 – 13 days before any election. Enter election day registrations and updates as soon as practical after each election. Voter addresses must be formatted in compliance with United States Postal Service requirements. Addresses in *ElectioNet* will be standardized. Clerks and Supervisors entering new addresses into *ElectioNet* will be required to use new tools provided by the state to standardize those addresses. RSA 654:45. RSA 654:27; RSA 659:13.

Sessions Of Supervisors

ELECTION DAY REGISTRATION

Any person may register to vote with the supervisors of the checklist at any election (i.e., primary and general elections, town, city, school district and village district elections). Applicants must meet all the qualifications required by RSA 654:12, as judged by the supervisors. RSA 654:7-a. Best practice is to provide an opportunity for voters to register in advance of or at an annual village district meeting that elects officers by unofficial ballot or voice/division vote from the floor.

For the purposes of this section "election" refers to any voting at which absentee ballots are provided. An "election" is also referred to in law as the "official ballot voting day." "Meeting" refers to the deliberative session or business meeting of the town, school, or village district.

Supervisors are required to hold a session for voter registration at each election. It is best practice to hold a session for voter registration at a meeting, but the law does not

require a session.

STATE ELECTIONS

The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election). Hold the session 6 - 13 days before the election. Hold this session for no less than 30 minutes and, at the discretion of the supervisors, the session may be extended for additional time.

Except for the provisions relative to election day registration, no additions or corrections may be made to the checklist after the session 6 to 13 days before the election is over. RSA 654:27.

PRESIDENTIAL PRIMARY ELECTIONS

In addition to election day registration and the session required above, the supervisors must also hold one session for additions and corrections to the checklist prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m. The Secretary of State determines and will announce the dates of the filing period for the Presidential Primary. RSA 653:9; RSA 655:47.

STATE PRIMARY ELECTIONS

Before the state primary election, the session must be on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00 p.m. and 7:30 p.m. At any session, the supervisors may extend the session to end at a later time. RSA 654:32; RSA 655:47, II.

LOCAL ELECTIONS

For all town, city, village district and school district elections, supervisors must hold a session on the day immediately prior to the first day of the filing period and on the Saturday 6 – 13 days prior to the election. In towns operating under RSA 40:13, known as the SB2 form of annual meeting, the supervisors' session shall be held on the

Saturday 6 - 13 days prior to the deliberative session. Supervisors must register voters on election day of local elections. RSA 669:5; RSA 44:5; RSA 670:3.

NO RESTRICTIONS ON OTHER SESSIONS

Supervisors should hold as many sessions as necessary to allow citizens in the community an opportunity to register or change party affiliation. In addition to the required sessions, supervisors may meet at any time prior to the final pre-election session required by law, as long as they post or publish notice of the meeting. RSA 91-A:2; RSA 654:27; RSA 654:32.

No additions, removals, or corrections to the checklist shall be made after the closure of your city or town's final session for correction of the checklist. RSA 654:27; RSA 654:28; RSA 659:12; RSA 669:5. Qualified individuals may register on election day.

Supervisors should meet and resolve pending additions and pending removals – which appear in System Reminders of *ElectioNet*.

Right-To-Know Law – Supervisor's Sessions

The board of supervisors of the checklist are a public body subject to New Hampshire's Right-to-Know law. RSA Chapter 91-A. Whenever a quorum convenes for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters these actions must be taken in a properly noticed public meeting. A quorum is two or more members of a three person Board. RSA 91-A:2.

Minutes of the meeting must be taken and made available to the public on request. The Right-to-Know law requires that "*Minutes of all such meetings, including nonpublic sessions, shall include the names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions. The names of the members who made or seconded each motion shall be recorded in the minutes.*" RSA 91-A:2, II. *ElectioNet* provides a report to use for this purpose.

The Attorney General’s Memorandum on the Right-to-Know law is an excellent guide. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf> (Last visited 8/4/2022). The document is also available in *ElectioNet* under Help > Instructions.

Consolidating Sessions

Whenever there is more than one required session within a 21-day period, the first required session may serve to fulfill the requirements of the remaining sessions. *Example:* Required session for town election within a short period of required session for separate school or village district election. RSA 654:27.

POSTING CHECKLISTS: NOTICES OF SESSIONS

No later than the fourth Tuesday before any state election, the supervisors shall post a current checklist at the town or city clerk’s office or at town hall.

At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist showing party affiliations at the town or city clerk’s office or at town hall.

Each posted checklist shall state the date, hour and place of the upcoming session(s) for checklist additions or corrections. Notice of any upcoming session must be posted in 2 appropriate places, one of which shall be on the city or town’s website, if such exists, or shall be published in a newspaper of general circulation in the town or city at least 7 days prior to the session. Reconvening of a recessed session does not require the publication of additional notice. However, the notice required by the Right-to-Know law must be posted in two places at least 24 hours prior to the session. RSA 91-A:2; RSA 654:26; RSA 654:27; RSA 654:33.

Supervisors may meet at other times to conduct regular maintenance of the checklist. Supervisors must provide notice of meetings where supervisors vote to add voters to the checklist, remove voters from the checklist, or vote to send voters a 30-day

letter. No notice is required for work by one or more supervisors or their staff to enter new applicants into pending status, scan election history, or to otherwise perform *ElectioNet* maintenance which does not officially change any voter’s status.

Notice of meetings where voters will be added to or removed from the checklist, which are in addition to those required by statute, must be made as required by the Right-to-Know law. “[A] notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body’s Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.” RSA 91-A:2. For example, one notice might be placed on the town hall bulletin board, and another might be placed on the town’s web site.

CERTIFICATION AND CORRECTION OF POSTED CHECKLIST

On each posted checklist, the supervisors shall subscribe the following oath: "We, the supervisors of the checklist of the town (or ward) of _____ do solemnly swear that, according to our best knowledge, the within list contains [number] names of those persons only who are, by actual domicile, legal voters in said town (or ward)." RSA 654:29.

Except for the additions and corrections made on election days, any additions or corrections shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by hand written additions or corrections to said checklist or by posting a new corrected checklist printed from the Statewide Voter Registration System. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk. RSA 654:28.

The Voter Registration Form

Each person desiring to register to vote must fill out a Voter Registration Form. (Page 344.) Use the July 2016 version of the Voter Registration Form. Supervisors must make certain that they have a sufficient supply of the current version these forms for themselves and the town or city clerk. Forms are available in *ElectioNet* under Help/Instructions. RSA 654:7.

DETERMINING AN APPLICANT'S QUALIFICATIONS

When the applicant has completed the Voter Registration Form (Page 344), the clerk or the supervisors must determine whether the applicant is legally qualified to vote in the community. RSA 654:12.

- a. **IDENTITY:** A person must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant.
- b. **AGE:** For those registering prior to an election, the person must be at least 18 years of age by the date of the next election. This means a 17 year old who will turn 18 in October, may not register until after the September primary. For those registering on election day, one must be at least 18 years of age on that date.
- c. **CITIZENSHIP:** An applicant must be a citizen of the United States. Naturalization papers may be requested of a naturalized citizen. If Naturalization papers are not available, the person may complete a Qualified Voter Affidavit. A permanent resident (green card holder) is not a United States Citizen. See additional information on determining citizenship and examples of common acceptable forms of proof, at page 347.
- d. **DOMICILE:** A person must have a domicile/principal residence in the town or ward in which he or she seeks

to register. Supervisors shall require proof of domicile in the manner and form as is described in more detail at page 22.

Students attending institutions of learning in the state may claim domicile for voting purposes in the town or city where they live while attending the school if they otherwise meet the domicile requirements. RSA 654:1, I-a. Refer to “Registering to Vote in New Hampshire” at page 19 or the Secretary of State’s website.

The determination of an applicant's qualifications to vote is a judgment that the supervisors must make. An applicant must be placed on the checklist unless a majority of the supervisors agree that it is more likely than not that the applicant is not qualified. The Secretary of State will assist in clarifying what these qualifications are, but cannot judge for the supervisors which applicants must or must not be registered.

The applicant must prove his or her identity during the application process. If a person has any one of the following in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver’s license issued by any state or the federal government.
- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

RSA 654:12, III.

These forms of identification are presumptive evidence of the identity of an applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo ID that they deem to be reasonable. RSA 654:12, II and III.

A chart on page 343 summarizes the types of documentation authorized for voter registration and election day check-in.

A person who does not have one of the approved photo identifications described above may establish identity through the completion of a Qualified Voter Affidavit. RSA 654:12. See example on page 321.

If an applicant is unable to provide the proof of identity, age, or citizenship as required in RSA 654:12, he or she may register by completing the necessary affidavits, pursuant to RSA 654:12, and completing the voter registration form. RSA 654:7. Applicants without acceptable proof documents must not be sent away to retrieve or obtain the documents. Election officials must offer the applicants the applicable affidavit(s).

Registration Of Nursing Home Residents

Residents of a nursing home or similar facility who no longer possess the usual forms of identification, may prove their identity through verification of their identity by the administrator of the facility or his or her designee. If an applicant for voter registration proves his or her identity by having it verified by a nursing home administrator, that registration will be treated in the same manner as would a registration where the applicant proved his or her identity with a qualified photo identification. RSA 654:12, III.

Registering At Any Election Without Approved Photo Id

When a person who has never been registered to vote in New Hampshire registers to vote on any election day and is unable to provide a:

- (1) Photo driver's license issued by any state or the federal government;
- (2) United States passport, armed services identification, or other photo identification issued by the United States government;
- (3) Photo identification issued by local or state government; or

- (4) Photo identification deemed legitimate by the supervisors of the checklist, the moderator, or the clerk, RSA 659:13, II (6),

he or she may establish identity through the completion of a Qualified Voter Affidavit. A photograph of the voter must be taken at the polling place and affixed to the affidavit. RSA 654:12. See chart on Page 343.

In order to register to vote, the applicant who does not have photo identification with him or her must have his or her photo taken. It is appropriate to direct the applicant to the "No Voter ID – Start Here" table. Officials at that table assist all voters who appear without qualified photo identification.

Take a photograph of the voter. If the photo is taken at the "No Photo ID – Start Here" table, direct the voter to return to the Supervisor's table. Attach the photograph to the Qualified Voter Affidavit.

If the person objects to a photo being taken because a photograph violates their religious beliefs, the person must complete an "Affidavit of Religious Objection." RSA 659:13-b. Sample on page 323.

Once registered, when arriving at the checklist to obtain a ballot the voter must have completed a Challenged Voter Affidavit. Take only one photograph. Make a notation on the Challenged Voter Affidavit stating that the photograph has been attached to the Qualified Voter Affidavit. RSA 659:13.

The Supervisors, the Moderator, and the ballot clerks should coordinate how an election day registrant who does not have photo ID is issued a ballot. Most polling places use a "New Voter Authorization Form" issued by the Supervisors to the Ballot Clerks. The sample form has been revised to include a section where the supervisor can document that a photo has been taken and is attached to the voter registration Qualified Voter Affidavit. Page 321.

The Moderator may want to have:

- The staff at the “No Voter ID – Start Here” table, when the photo is taken for registration, to assist the applicant with also completing the Challenged Voter Affidavit that will be required to pick up a ballot and to issue the voter the “Voter ID Law Explanatory Document.” Or
- The Supervisors oversee the newly registered voter completing a Challenged Voter Affidavit for no ID and issuing that new voter the Voter ID Law Explanatory Document.

Either option will allow the newly registered voter to check in and obtain a ballot more easily. It will also minimize delays at the checklist check in table.

Ensure that any voter without Photo ID is issued a copy of the one page Voter ID Law Explanatory Document. This is the one page version of #5-2019, which is posted at the polling place. This document is available in PDF in *ElectioNet* > Help > Instructions.

Inform a person who registered in New Hampshire for the first time on election day who successfully proves his or her identity by completing a Qualified Voter Affidavit, that he or she will receive an identity verification letter. The Secretary of State will perform a verification of identity for that person following the election. RSA 654:12, V(b). It is, therefore, necessary for the election official receiving the application to note on the Voter Registration Form that the person registered by completing a Qualified Voter Affidavit to establish identity. When the registration is entered into *ElectioNet*, if the person is not already in the system as previously registered elsewhere in New Hampshire, or if the town or ward of previous registration claimed on the Voter Registration Form does not match the *ElectioNet* record, mark the registration form to document that a Qualified Voter Affidavit was used to prove identity.

Within the time frame set forth in RSA 654:12,V(b), the Secretary of State will send a letter to each voter who is new to New Hampshire and who registered on election day by completing a Qualified Voter Affidavit to establish identity. In the letter, the voter will be welcomed as a new voter, but will be instructed (a) to return written confirmation within 45 days that the person registered and voted, or (b), if not, to immediately notify the Attorney General if the person did not register and vote on election day. RSA 654:12, V(a) and V(b).

If the United States Postal Service returns the identity verification letter as undeliverable or if persons who were mailed identity letters have not confirmed their registration, the Secretary of State will conduct an inquiry. The inquiry may include consulting with, and examining public records held by municipal officials which contain information relevant to a person’s qualifications to vote in New Hampshire, and/or interviewing persons living at the address listed on the voter registration form. If identity is not verified, the Secretary of State makes a referral to the Attorney General. The law then requires the Attorney General to investigate those people whose identity or eligibility to vote could not be confirmed. Additionally, if any person reports that someone else used his or her name to register and/or vote, or if the Secretary of State refers a person for potential fraud, the law requires the Attorney General to investigate whether voting fraud occurred. RSA 654:12, V(c).

REGISTERING WITHOUT DOCUMENTARY EVIDENCE OF DOMICILE

Local election officials are required to keep a record of and enter into *ElectioNet* when a person registers to vote using a Domicile Affidavit. This is necessary because within 90 days of each election, the Secretary of State must forward a list of the names of persons executing a Domicile Affidavit since the prior election to both the Attorney General and the Division of Motor Vehicles. Within the time frame set forth in RSA 654:12,V(d),

the Secretary of State will send each such person, who does not appear to have a New Hampshire driver's license, a letter informing him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. Any letters that are returned as undeliverable will be inquired into by the Secretary of State. The inquiry may include consulting with, and examining public records held by municipal officials which contain information relevant to a person's qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the voter registration form. The law then requires the Attorney General to investigate, pursuant to a list prepared and forwarded by the Secretary of State, those people whose eligibility to vote could not be confirmed. The law also requires the Attorney General to investigate whether voting fraud occurred. RSA 654:12, V(e).

IN-STATE TRANSFER OF VOTER REGISTRATION

If *ElectioNet* is in use when a person is registering and the election official can determine that the person applying for registration as a voter is currently registered as a voter in another New Hampshire town or ward, the applicant does not have to re-prove age or citizenship. The applicant must still complete a Voter Registration Form and prove his or her identity and domicile. This law is intended to make the voter registration process quicker and easier for both the voter and the election official. This waiver of the requirement for proof of age and citizenship applies only when the election official is able to check *ElectioNet* as the person is registering. RSA 654:12, IV.

PROOF OF CITIZENSHIP

Supervisors must require an applicant to prove citizenship by presenting any one of the following:

- Birth certificate;
- United States Passport;

- Naturalization papers;
- Qualified Voter Affidavit;
- US Department of State Form FS-240: Consular Report of Birth Abroad of a Citizen of the United States of America also known as a "CRBA." CRBAs have been issued since 1919 and have taken many forms over the years. They will bear the U.S. embassy/consulate or Department seal, and are also proof positive of U.S. citizenship; or
- US Department of State Form FS-545: Certification of Birth Abroad of a Citizen of the United States which were first issued in 1960 and discontinued in November 1990. DS-1350: Certification of Report of Birth Abroad of a United States Citizen replaced the Form 545 in November 1990 and was discontinued on December 31, 2010, when the Department resumed issuing exclusively CRBAs.

See Appendix page 347 for examples of the various types of forms that are proof of citizenship.

Submission by the applicant of any one of the above documents is sufficient for compliance with this section. Do not require any further document in this category. RSA 654:12.

Best practice is to have all applicants who do not have proof of citizenship complete a qualified voter affidavit. It is important to ensure that all applicants are treated equally. If the applicant is transferring their voter registration (has been previously registered in New Hampshire) the applicant has previously established citizenship and age and need not re-prove those qualifications. RSA 654:12, IV.

A REAL ID driver's license or non-driver ID is not evidence of United States Citizenship. A United States Citizen has to prove

citizenship to obtain a REAL ID. A non-citizen who is legally present in the United States may also obtain a REAL ID by proving they have a Permanent Resident “Green Card” or appropriate VISA.

A Lawful Permanent Resident, or permanent resident card, often referred to as a “green” card is evidence that the person is not a United States Citizen. Some green card holders become United States Citizens through naturalization. However, unless and until they become United States Citizens they are not permitted to register to vote or to vote. Non-citizens may also hold a visa and be legally present in the United States. There are many different types of visas. None are proof of United States Citizenship. Some visa programs can lead to United States Citizenship; others are to permit a temporary presence in the United States under circumstances where the person is expected to leave the United States by the expiration date.

PROOF OF AGE

The supervisors may also request any reasonable documentation which establishes that the applicant will be 18 years of age or older on election day.

PROOF OF DOMICILE

The determination of a person's domicile is a question of fact. Based on the available evidence, is it more likely than not that the person has established a physical presence at the place claimed as domicile? If yes, is it more likely than not that the person has manifested an intent, has acted, to maintain at that one place, more than any other place, a continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government? RSA 654:1. *“Domicile for purposes of voting is a question of fact and intention coupled with manifestation of that intent.”* If you answer both questions with “yes,” the person has satisfactorily proven his or her domicile for voting purposes. A person applying to register to vote who does not possess or who does not bring evidence

of domicile must be provided with a Domicile Affidavit RSA 654:1; RSA 654:2.

A person who does not possess or did not bring proof of domicile may register to vote by completing a Domicile Affidavit.

HOMELESS APPLICANTS

“All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.” New Hampshire Constitution, Part 1, Article 11. Both the New Hampshire and United States Constitutions establish that a homeless person has the same right to vote as a person who owns, leases, or rents a home.

The same requirements for domicile apply to all. A homeless person has a right to register and vote in that town or ward where he or she, *“more than any other place, has established a physical presence and manifests an intent to maintain”* his or her domicile. RSA 654:1.

The homeless applicant's domicile may be the street, parking lot, or park/woodland where the person lives/sleeps more than any other place. If the person lives in a car, their domicile may be where they park/sleep in the car more than any other place. The homeless applicant's domicile may be the home of another where, more often than any other, the homeless person sleeps. The homeless applicant's domicile can even be the park, area under a bridge, or spot in the woods where, more than any other place, the homeless person sleeps. Do not deny a person, who is otherwise qualified to vote, from registering because he or she is homeless. Request the applicant to provide the best available mailing address, which may be the address of a homeless shelter, church, social service organization, relative, friend, etc. who would receive and pass along mail sent to the applicant. When the voter is providing a mailing address that is different from where he or she most often stays, the mailing address need not be in the town or ward.

An applicant's domicile is qualified for voter registration purposes even if the person living at that address is unlawful. An applicant who is living in a campground in violation of a local ordinance prohibiting use of the campground as a principal residence/domicile may nonetheless register to vote using that domicile. Similarly, a person who is living in a park which does not allow camping or is on property in violation of a do not trespass order, may nonetheless register to vote using that domicile. Such a person, even if convicted of violating an ordinance or law, does not lose the right to vote.

Domicile is discussed further starting at page 22.

DECISION TO BE MADE BY THE SUPERVISORS OF THE CHECKLIST

The clerk must provide any completed voter registration forms to the supervisors prior to the supervisors' next session. The supervisors may issue written guidelines to the clerk describing what evidence the supervisors accept as proof of identity, citizenship, age, or domicile. It is up to a majority vote of the supervisors, made in a properly noticed public session, to make the final determination of whether to add the applicant's name to the checklist. RSA 654:11.

The supervisors must consider any applications received from the clerk at the first meeting held after receipt of the applications. Absentee Voter Registrations received after the supervisors' last session before an election shall be processed on election day as election day registrations under RSA 654:7-a. RSA 657:16.

If the supervisors vote by majority that an applicant is qualified, they must add his or her name to the checklist. The original copy of the form and any affidavits used must be retained, for the period established in RSA 33-A:3-a, by the supervisors for their records.

NOTICE OF TRANSFER

If an applicant reported having been registered to vote elsewhere on the voter registration form the supervisors must enter that information into the statewide centralized voter registration system in a timely manner.

If the applicant reported having been registered in another state, the Secretary of State will notify the chief elections officer in the other state that the person has registered to vote in New Hampshire.

If a person who is registered to vote in New Hampshire registers to vote in another state and that state notifies New Hampshire, the supervisors of the checklist will receive a written notice or a reminder screen notice on the statewide centralized voter registration database that the voter has registered in another state. Unless the supervisors possess evidence that the notice is inaccurate, they must remove the voter from the checklist as provided in RSA 654:36. RSA 654:13

REJECTION OF APPLICATION

If the applicant is deemed not to be qualified as a voter, the supervisors must inform him or her in writing within 7 days of their decision, stating the reason for the denial. The supervisors shall write the word "REJECTED" and the date of the rejection on the form and preserve it along with a copy of the denial notification. RSA 654:13; RSA 654:23. Record the rejection in *ElectioNet* if the voter has already been entered in *ElectioNet*.

Applicants and supervisors should be aware that any citizen may appeal the supervisors' denial of voter registration to the New Hampshire Superior Court. RSA 654:42.

DISCLOSURE OF VOTER REGISTRATION FORM INFORMATION

The Voter Registration Form (page 344) serves as the basis of a data file, maintained in *ElectioNet*, of registered voters in the town

or ward. The *ElectioNet* file is, in part, a public record. However, public information includes only the voter's name, *ElectioNet* ID number, physical street address, mailing address, town or city name, and party affiliation, if any. The marked checklist used at an election is also a public record. The marked checklist makes public, the history of whether a person voted and for primary elections, in which party's primary the person voted. RSA 654:31 allows only the Secretary of State to provide voter history from the Statewide Voter Registration System, then only the history from the preceding two years in disclosures to the political parties, political committees, or candidates for county, state, or federal office. RSA 654:25; RSA 654:31; RSA 654:31-a; RSA 659:102. The remaining information on the Voter Registration Forms is not subject to the Right-To-Know law, RSA 91-A. This information may be disclosed by election officials if disclosure is necessary to resolve a challenge to the voter, for investigations of election law violations, or for the records of an individual who is the subject of a law enforcement investigation or prosecution. RSA 654:31-a. Otherwise, it is a misdemeanor to disclose non-public information from a voter's registration record. RSA 654:31; RSA 654:45, VI

Information about voters who have a valid protective order or who are participants in the address confidentiality program is exempt from public disclosure requirements. RSA 173-B:4; RSA 7:46.

Absentee Voter Registration

Any person who is legally qualified to vote, but not yet registered, may register by absentee if unable to attend a session of the supervisors due to:

- Absence, or
- Disability.
- If you are a person confined to a penal institution awaiting trial or because of a misdemeanor conviction. A person incarcerated because of a felony conviction is not

eligible to register or vote while incarcerated.

The applicant must request a special Absentee Voter Registration Form from their town/city clerk or the Secretary of State's office. RSA 654:16.

The election laws define the term "absent" for absentee voting purposes to include being "unable to appear at any time . . . because of an employment obligation." "[E]mployment' shall include the care of children and infirm adults, with or without compensation." RSA 657:1. This meaning of "absence" applies equally to absentee voter registration.

New Hampshire is exempt from the federal National Voter Registration Act, the "Motor Voter" law. If a federal motor voter postcard registration form is received from someone who is absent, or disabled, the clerk or the supervisors must send the applicant the materials required for a New Hampshire Absentee Voter Registration. If the applicant is not absent, or disabled, he or she can be notified to come to the clerk's office or a session of the supervisors to register in person.

The town or city clerk must send Absentee Voter Registration Forms to anyone who requests them. The absentee registration package including the voter registration form (July 2016 version), affidavit, and instructions are available in *ElectioNet*. RSA 654:16; RSA 654:17. An applicant can also obtain the Absentee Voter Registration package from the Secretary of State.

The applicant must return the completed applications to the clerk. The clerk must provide the completed application to the supervisors of the checklist at or before their next session. RSA 654:17, RSA 654:18, RSA 654:19.

The law does not set a deadline for applying for absentee voter registration. RSA 654:16. A qualified applicant may, up until the day before the election, obtain the forms necessary for absentee voter registration and an absentee ballot from the clerk, complete

the application forms, provide the required copies of evidence of qualifications, complete the absentee ballot and affidavit envelope, and return all to the clerk. The clerk shall provide the application and supporting documents to the supervisors for processing as an election day registration under RSA 654:7-a. RSA 657:16.

FEDERAL OFFICE ONLY VOTERS (DOMICILED OUTSIDE THE U.S.)

A Federal Office Only voter's ballot has only the offices of United States President, United States Senator, and Representative in Congress listed on it. A Federal Office Only Voter is neither a regular absentee voter nor a military voter (uniformed services voter) who is simply overseas. A Federal Office Only Voter is a person living outside the United States who no longer maintains a domicile in New Hampshire, but who had his or her last domicile before leaving the United States in New Hampshire. A child or legal dependent of a person qualified as a Federal Office Only voter and who is a United States citizen, may also be a Federal Office Only voter even if he or she has never lived in the United States or New Hampshire. A person most recently domiciled in or registered to vote anywhere else in the United States does not qualify to vote in New Hampshire as a Federal Office Only voter. The voter must have a valid United States Passport or card of identity issued by the U.S. State Department. RSA 654:3, III.

A voter is a Federal Office Only Voter if he or she submits a Federal Post Card Application (FPCA) form with either of the following checked in the "Who are you?" section:

- "I am a U.S. citizen living outside the country, and my intent to return is uncertain" or
- "I am a U.S. citizen living outside the country, and I have never lived in the United States"

Otherwise, a voter is also a federal office only voter if he or she communicates to the clerk or supervisors that one of these sentences describes their present circumstance.

A voter living outside the United States may download a Federal Post Card Application (FPCA) form from the Federal Voting Assistance Program <https://www.fvap.gov> (Last visited 8/4/2022) (See FPCA example on page 334.)

Do not send a standard Voter Registration Form or Absentee Ballot Application to a voter reporting he or she is living outside the United States. Having the applicant use the FPCA helps avoid confusing the voter with a voter who retains a domicile in New Hampshire, is only temporarily absent with an intent to return to that domicile, who is qualified to vote on a full absentee ballot. Clerks keep a copy of the completed FPCA and provide the original to the supervisors. Once registered, a Federal Office Only Voter is eligible to vote for federal offices only. The Secretary of State prepares and provides clerks with a Federal Office Only (FOO) absentee ballot for each state election. RSA 654:20; RSA 654:23.

Absentee Write-In Ballot

Voters who are unlikely to have sufficient time to receive, mark, and return a regular absentee ballot may request an absentee write-in ballot. An absent uniformed services voter, an absent voter temporarily residing outside the U.S., or a voter domiciled outside the U.S. who due to requirements of military service or due to living in an isolated area outside the United States, may apply for a both a regular and a write-in absentee ballot. There are write-in ballots available for the primary and general elections. RSA 657:10-a.

A voter qualified to vote by absentee write-in ballot may obtain an Official Federal Write-In Absentee Ballot (FWAB) from the U.S. Department of Defense (FVAP) website at <https://www.fvap.gov> (Last visited 8/4/2022)

These FWABs must be accepted by moderators and clerks as official ballots, so long as there is a voter signature on the affidavit. If the voter received assistance with voting and the name and signature of the person assisting is on the form, the signature is not required for a voter with a disability who is unable to sign the form. Count the absentee ballot if the other requirements set forth above are satisfied.

See sample of the Federal Write-in Absentee Ballot (FWAB) at page 338. RSA 657:10-b; RSA 657:23.

Moderators are prohibited from conducting the signature comparison set forth in RSA 659:50, III. The United States District Court for the District of New Hampshire held that RSA 659:50, III is unconstitutional. See: Notice Regarding the Processing of Absentee Ballots on Election Day. *ElectioNet* >Help > Instructions.

MAINTAINING VOTER REGISTRATION RECORDS

New Hampshire law requires that the supervisors maintain the following governmental records until the voter is removed from the checklist plus 7 years:

- Completed voter registration form;
- Party change form;
- Same day return to undeclared form and report;
- Absentee ballot voter application form (FPCA);
- Overseas absentee registration affidavit;
- Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist;
- Notice of removal;
- Report of death;
- Report of transfer;
- Undeliverable mail or change of

address notice; and

- Qualified voter and Domicile Affidavits.

RSA 654:25; RSA 654:31-a; RSA 33-A:3-a.

All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted. RSA 654:13-a

Confidential Voters

A voter is entitled to be a confidential voter by presenting a valid protective order pursuant to RSA 173-B:4 or evidence the voter is a participant in the address confidentiality program established by RSA 7:46. The voter must make a request to the clerk or supervisors. The supervisors, using *ElectioNet*, mark the public checklist with an entry “Non- Public Voter” followed by a sequential number, i.e. 1 for the first such voter, 2 for the second and so on. The supervisors must then maintain a separate non-public checklist of these voters. Do not disclose the non-public checklist to anyone other than the clerk and the moderator, except as otherwise provided by law. *ElectioNet* has provisions for marking voters non-public (confidential). Use *ElectioNet* to print the non-public checklist.

Clerks must send any qualified non-public (confidential) voter an absentee ballot. “The program participant shall automatically receive absentee ballots for all elections in the jurisdiction for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15.” RSA 7:46.

If a voter or a person in the household of the voter is a victim of certain crimes and does not wish to have his or her name or address

appear on the checklist, he or she may apply to participate in a confidentiality program through the Attorney General's Office. RSA 7:46.

If a person appears at the polling place to register and vote in person and identifies himself or herself as either being protected by a court order issued under RSA 173-B:4 or as a participant in the Attorney General's address confidentiality program, under RSA 7:46, the supervisors and the moderator should provide the voter an opportunity to register and vote confidentially. The moderator must arrange for the voter to obtain a ballot without the voter's name being publicly announced and the entry of the voter on the marked checklist used on election day must be as "Confidential Voter #_." Fill in "1" unless there are other confidential voters on the checklist, then use the next number in sequence.

It is appropriate to ensure the voter knows that he or she may vote absentee at future elections and to encourage the voter to consult with the Attorney General's Victim Witness Assistance office regarding how to vote while remaining safe. RSA 654:25; RSA 659:50.

More information on the Address Confidentiality program may be obtained by contacting the Attorney General's Office of Victim/Witness Assistance at 1-800-300-4500 or (603) 271-1240.

Checklist Changes

REMOVAL OF NAMES

Only those persons legally qualified to vote should have their names maintained on a town or city checklist. Inaccurate checklists which list the name of a person who has moved from town, died, become an incarcerated felon, or who has otherwise become ineligible to vote make it easier to commit voting fraud.

While there is insufficient evidence of this occurring in New Hampshire in the recent past, historically in the United States one

common form of voting fraud is the use of the name of a dead or absent person, whose name is still listed on the checklist, by a person who is not qualified to vote. The public confidence in New Hampshire's election system may be diminished when a voter reviews the checklist and finds the names of people who the voter knows are no longer alive or no longer qualified to vote. Supervisors keeping their checklist current, by fully utilizing *ElectioNet*, will support public confidence in the state's voting system.

The supervisors must remove the name of any person who relinquishes his or her U.S. citizenship or domicile in the community. A domicile for voting purposes is not lost because a voter is temporarily absent from his or her home. As long as a voter has a domicile in the town or city, intends to return to that domicile as his or her home, and does not establish another domicile for voting purposes in another community, that voter's name must remain on the checklist. RSA 654:2.

Except in circumstances where the law authorizes removal without notice, at least 30 days before removing the name of a voter from the checklist, the supervisors must first send written notice of removal by mail to the voter's last known address. The notice must state the reason considered for removing the name and the time and place where the voter may respond. RSA 654:44. Notice of removal letters can be found in and printed from *ElectioNet*.

The decision to send a voter a 30-day letter must be made at a properly noticed public session of the supervisors. The minutes of that session must include the name of the supervisor who made the motion to send the letter and the name of the supervisor who seconded the motion. RSA 91-A:2.

RSA 654:44 does not state a standard for when a 30-day letter is justified. The board of supervisors must have a reasonable basis to believe the voter is no longer qualified to vote in their town/ward. A reasonable basis

includes any evidence or information that would lead a reasonable person to believe it is more likely than not the person has moved his or her domicile out-of-town or is otherwise no longer qualified.

Best practice is for the supervisor making the motion to send a voter a 30-day letter to include the basis for doing so. Including this information in the minutes will ensure the board is able to explain why a 30-day letter was sent, should that act be questioned in the future. Examples include, but are not limited to:

- “the supervisors received a request to correct the checklist from _____ who reported the voter moved out-of-town;”
- “Supervisor ____ observed that the voter has moved away from their domicile address;”
- “mail sent to the voter at the address provided by the voter was returned by the United States Postal Service, and the reason listed was not that the person had permanently moved.”
- A property transfer inventory form received by the town reported the voter sold their domicile and it was likely the voter moved out-of-town.

A voter may be removed without notice based on information from the Postal Service or the Division of Motor Vehicles that the voter has permanently moved out-of-town. RSA 654:36-b.

Upon receipt of a report of transfer or a notice in System Reminders of *ElectioNet* that indicates that a voter has registered to vote in another community, or has permanently moved from the town or ward where registered, the supervisors, unless they have evidence that the notice is more likely than not in error, shall remove that voter's name from the checklist by approving the removal in System Reminders. *ElectioNet* provides notices of death received from the Division of Vital Records through the New Hampshire Vital Records Information

(NHVRIN) system to the supervisors who shall remove the voter's name from the checklist. See page 208 for further details.

A system is being implemented that will provide notice to supervisors when the United States Postal Service National Change of Address system or the New Hampshire Division of Motor Vehicles report that a voter has permanently moved out-of-town. See page 2 for further details.

NOTICE OF DEATH

Clerks review the list of deaths for their city or town listed in the New Hampshire Vital Records Information Network and search for possible matches with voter records. When a death notice matches the name, date of birth and residence of a voter on the checklist, *ElectioNet* sends a notice of the death to the supervisors of the checklist.

If the information does not match on all three data points, and is a partial match, the Secretary of State and the clerk identify probable matches to be reviewed by the supervisors. If the supervisors conclude it is likely the voter has died, but there is no official verification, the clerk shall follow the procedures for an unofficial notice of death. RSA 654:37, RSA 654:37-a

UNOFFICIAL NOTICE OF DEATH

If Supervisors of the Checklist learn of the death of a voter, that has not been officially reported, a special 30-day letter shall be mailed to voter's last known address. RSA 654:37-a. It is appropriate to wait to see if an official notice of death becomes available.

The Secretary of State will provide a model special 30-day letter, worded as an inquiry seeking to correct or confirm the report of death.

- If no response is received after 30 days, the supervisors remove the voter's name from the checklist;
- If a response is received confirming the voter's death, the supervisors may remove the voter's name from

the checklist at the next properly noticed and conducted session.

Medical providers or funeral homes generally promptly report in-state deaths to Vital Records. However, *ElectioNet* will provide a death notification, through NHVRIN Matched Death Records, only if the name and date of birth is an exact match to the name in the Vital Records death record. Supervisors must check the official reports of death for inexact matched records. Supervisors must work with the Clerk who will provide a special report called the “Voter Checklist Report” from the Vital Records system. The Supervisors should advise the clerk as to what date range the report must cover. Often, Supervisors will find an official death notice on that list, but that there is a minor difference in the spelling of the name or some other difference between the two records.

The need to address an unofficial notice of death is usually limited to circumstances where the voter dies while in another state. A Vital Records system exists for information exchange between states that will in many cases, over time, result in an official notice of death in the New Hampshire Vital Records system.

Contacting the family of a recently deceased voter is a sensitive matter. While not required by RSA 654:37-a, best practice is to exhaust reasonable efforts to obtain an official notice of death instead of sending a 30-day letter inquiry. If a supervisor or the clerk personally knows a member of the family of the deceased voter, consider informally seeking that person’s assistance with obtaining a copy of the death or burial certificate. If you can identify the funeral home that served the family, usually reported in an on-line obituary, the funeral home may also be of assistance.

POSTAL SERVICE NOTICE OF PERMANENT MOVE

Supervisors shall also either remove a person’s name from the checklist or send the

person a 30-day letter if notice is received from the United States Postal Service, the Department of Safety, or through *ElectioNet* that the person has permanently moved from the town or ward where he or she is registered to vote. RSA 654:36-b.

Mail sent to a voter, at the mailing address the voter last provided, that the United States Post Office returns indicating that the person has permanently moved should trigger removal of the person’s name from the checklist.

Mail may be returned undelivered for many different reasons. Remove the voter without further notice only if the endorsement on the returned mail clearly indicates the voter was known at that address but has permanently moved. The following endorsements from the Postal Service web site qualify: “Attempted – Not Known”

- “Deceased” (check against NHVRIN death records);
- “Moved, Left No Address;”
- Not Deliverable as Addressed – Unable to Forward;”

<https://pe.usps.com/text/dmm300/507.htm> (last visited 8/4/2022). It is important to verify that the address written on the returned mail exactly matches the voter’s address of record. The Postal Service often will not deliver mail when the address is close, but not exactly correct.

If the supervisors have reason to believe the notice is in error, then send a 30-day letter to the voter before removal of the voter’s name from the checklist. RSA 654:36-b.

The United States Postal Service may return mail sent by the supervisors, clerk, or others (who provide the returned mail to the supervisors) which does not clearly state the voter has permanently moved. In that circumstance a 30-day letter is appropriate if the return notice makes it more likely than not the voter is no longer domiciled where

registered.

When supervisors receive a notice of transfer or official notice of death, generally, do not send a “notice of removal.” *ElectioNet* will preserve a record of all electronic notices. Supervisors must record all paper notices they receive or send so that they may justify their actions in the future, if necessary. RSA 654:36; RSA 654:37; RSA 654:44.

CHANGING PARTY AFFILIATION

A registered voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a state or presidential primary and up to the day of the primary election. When a voter moves from one New Hampshire town to another, treat the voter as a new registrant for this purpose. All new registrants may choose any party affiliation, regardless of the voter’s party affiliation where the voter was previously registered.

The supervisors must hold at least one meeting prior to the filing period for the change of party affiliation by registered voters. For the Presidential Primary, the session shall be on the Friday preceding the first day of the filing period, between 7:00 PM and 7:30 PM. For the State Primary, the session shall be on Tuesday before the first Wednesday in June, between 7:00 PM and 7:30 PM. RSA 654:32.

The law authorizes city and town clerks to accept applications to change party affiliation.

Clerks then provide the party change requests to the supervisors. The supervisors will not act until after the state primary on applications to change party received after the filing period has started.

An unaffiliated voter may declare his or her affiliation at the primary and may vote the ballot of his new party.

A voter who has declared an affiliation with a party prior to a primary election may only vote in that party’s primary. A voter may write in the name of their preferred candidate

on their own party’s ballot. If this candidate is on a different party’s ballot, the vote will not count as a vote in the other party’s total. Instead, the write-in vote will count as a vote for that candidate in the party the voter received a ballot for.

For example, a voter writes in “John Doe” on the Party A ballot for governor. John Doe is a candidate for Party B’s nomination. This voter’s write-in vote for John Doe will not be counted in the votes for John Doe on the Party B ballot. The vote will count as a vote for John Doe on the Party A ballot only. This provides the voter an opportunity to express his or her support for the candidate.

The voter can change parties on the day of the primary election, but then is not allowed to vote at all in that primary.

A voter may be registered to vote as a member of any recognized political party or as undeclared. An undeclared voter is not a member of any party. Undeclared voters are also called unaffiliated voters. RSA 654:34.

An undeclared voter may declare his affiliation at the primary and vote the ballot of his new party. The voter may, after voting and before leaving the polling place, change back to undeclared by signing his or her name on a list of voters prepared for the purpose of recording party changes back to undeclared. The voter may also change back to undeclared after the election at the clerk’s office or a session of the supervisors. RSA 654:34.

Voters who register at the primary election as undeclared, then affiliate with a party when checking in to obtain a ballot and vote in that party’s primary, may change back to undeclared by filling out the “Return to Undeclared” form available in *ElectioNet*. See this form on page 439. RSA 654:34.

Any person who is a registered member of a party and votes a ballot of that party at a primary election SHALL NOT fill out a card to change his or her party status to unaffiliated on primary election day. RSA

654:34, III and V. To change party affiliation or to become undeclared, a voter registered as affiliated must complete a party change form at the clerk's office or at a session of the supervisors of the checklist after election day.

CHANGE OF ADDRESS WITHIN TOWN OR WARD

Supervisors must enter a change of address in *ElectioNet* if they:

- (a) Observe an address change on the marked checklist from an election;
- (b) Receive evidence of a permanent change of address within the town/ward from the U.S. Postal Service (the *ElectioNet* record may be updated based on the Postal Service report of a permanent move); or
- (c) Obtain appropriate documentation indicating that a person has moved within his or her town or ward, or that the street name or number has been changed for a voter that has not moved.

PHYSICAL (DOMICILE) ADDRESS FOR EACH VOTER

Supervisors shall ensure that each voter has a domicile address that represents a real location consistent with a recognized addressing formula within the town or ward of the person's domicile. If there is no physical address, the physical street name should correspond to a recognized legal exemption from the physical address requirement.

REMOVAL OF DUPLICATE RECORDS

Supervisors are obligated to address duplicate voter records – records for one voter that appear in more than one New Hampshire town or city – in a timely manner. Supervisors must use the Inquiry function in *ElectioNet* when registering new voters, thereby avoiding creation of duplicates.

The Secretary of State is required to analyze all records in the Statewide Voter Registration System to identify any where two voters have the same date-of-birth, place-of-birth, and a substantially similar

name. This information will be forwarded to the supervisors for each town or city where either person is registered. The supervisors must examine local records and collaborate with colleagues in the other town/city to determine if these are duplicate records.

If the records are duplicate, the supervisors must determine in which town or city the voter is currently domiciled. Most often this will be where the voter most recently registered. Corrections must be made to the checklist.

Supervisors must compare the voting history for both. If the person voted in the same election in two towns/cities, the Supervisors must report this to the Attorney General.

If the records are not duplicate, there are two different voters, keep a record in case these voters appear on a future potential duplicate voter list.

The Supervisors are required to report the results of their work to resolve possible duplicate registrations back to the Secretary of State. This information will help reduce the frequency of these same voters being reported as possible duplicates on subsequent reports. RSA 654:45, I(b).

Campaigning

Political advertising used in any election, including local elections, must bear the name and address of some person responsible for the advertising. RSA 664: 1; RSA 664:14. The courts have held that a communication is political advertising only if it explicitly advocates the success or defeat of any party, measure, or person at any election. RSA 664:17 controls the placement of political advertising (signs).

RSA 664:17 prohibits placing or affixing political advertising on any public property, including highway rights of way. Nor may political advertising be placed on or affixed to private property without the owner's consent.

This law allows signs to be placed within a State-owned right-of-way, but only if the

owner of the underlying land gives the person erecting the sign permission and as long as the sign does not obstruct the safe flow of traffic. The law prohibits removing signs from private property, even unlawfully placed signs, except by the property owner or someone authorized by the owner of the property. The law also prohibits removing signs from public property, even unlawfully placed signs, except by law enforcement or state, town, or city maintenance personnel.

When public employees remove signs prior to election day, the signs must be kept until one week after the election at a place designated by the municipality so that the candidate may retrieve the signs. RSA 664:17.

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Filing Of Candidates

There are separate procedures to be followed by candidates and election officials for filing for office in state elections. Each of these procedures is detailed as follows:

FOR PRESIDENTIAL PRIMARY

All inquiries regarding filing for the presidential primary should be directed to the Secretary of State.

FOR STATE PRIMARY ELECTION

Before the opening of the filing period for a state primary election, the Secretary of State will send the “Notice to Voters of State Primary Election” to all city and town clerks. City clerks are to forward these notices to ward clerks. Within 10 days of his or her receipt of this notice, the town or ward clerk shall fill in the information and post the notices in two public places within the town or ward. This notice serves as the warrant for the state primary election. RSA 655:11; RSA 655:12.

STATE REPRESENTATIVE

In single-town representative districts, candidates file with the town clerk of that town. In districts composed of more than one town, the candidate files with the town clerk in the community in which the candidate is domiciled.

Candidates for state representative must complete every portion of the declaration of candidacy, including the affidavit of qualification, and the financial disclosure.

RSA 655:14; RSA 655:15; RSA 655:17.

Note: The law requiring a candidate to declare whether he or she will agree to the campaign spending limit was repealed by HB 263 (2021).

Candidates who file for state representative are also acknowledging that, if elected, they will serve as a delegate to the county convention (a member of the county legislative body). RSA 655:29.

Since candidates for state representative must file with the town or city clerk, the clerks should be aware of the qualifications for this office. The constitutional and statutory requirements for state representative are the following:

“Every member of the house of representatives shall be chosen by ballot; and, for two years, at least, next preceding his election shall have been an inhabitant of this state; shall be, at the time of his election, an inhabitant of the town, ward, place or district he may be chosen to represent and shall cease to represent such town, ward, place, or district immediately on his ceasing to be qualified as aforesaid.”

New Hampshire Constitution, Part 2, Article 14. RSA 655:8 further provides that *“to hold the office of state representative, a person must be at least 18 years of age and must be qualified as provided”* in the New Hampshire Constitution, Part 2, Article 14.”

DECLARATION OF CANDIDACY

Prior to the opening of the filing period for a state primary, the Secretary of State will

provide each town and city clerk with a supply of Declaration of Candidacy forms. The Declaration of Candidacy form is established by statute. The name of a person declaring candidacy will be printed on the official primary ballot of the party in which he or she is registered. RSA 655:17. Only candidates for seeking a political party nomination as state representative or delegate to the Republican state convention file the form with the town or city clerk. RSA 655:15. Candidates for all other offices file with the Secretary of State.

The person signing the declaration of candidacy must be a registered voter in the town or ward where they are filing and registered as a member of the party for which they are filing. It is the responsibility of the clerk to check *ElectioNet* and ensure these requirements are satisfied. Political organization candidates, sometimes called third party candidates, for State Representative file with the Secretary of State.

FINANCIAL INTEREST STATEMENT

RSA Chapter 15-A requires all candidates for state and county office to file a statement of financial interest. The reporting form requires the candidate to identify professions, businesses, or organizations which were the source of more than \$10,000 of income during the preceding calendar year. It also requires identifying broad categories of business and public policy where the candidate or a family member has a special interest. RSA 15-A:5.

MAIL COMPLETED FORMS TO SECRETARY OF STATE

Declarations of candidacy, primary petitions, assents to candidacy, and RSA 15-A statements of financial interest **must be mailed by the town or city clerk to the Secretary of State on the same day they are filed.**

In addition, clerks must send a daily electronic summary of all filings received on that day. Summaries must include the name and address of every candidate who has filed. Reports shall only be required to be sent on days that clerks' offices are open and receiving filings. A fillable PDF form for making these daily reports is available in *ElectioNet* > Help > Instructions: "2022 - Town Clerk Reporting Fill-in Form State Representative" and "2022 - Town Clerk Reporting Fill-in Form Delegates to Convention." Complete the form, save a copy in your local system, attach to an email then email to elections@sos.nh.gov. RSA 655:18; RSA 655:27.

Any person filing on the last day of the filing period must do so in person. Candidates for nomination by a political party as State Representative and delegate to a party convention must file with the clerk. The clerk's office must be open at least between the hours of 3 p.m. and 5 p.m. on the last day of the filing period. Candidates for all other offices must file with the Secretary of State. RSA 652:20. RSA 655:15; RSA 655:16.

DELEGATE TO REPUBLICAN STATE CONVENTION

Delegates to the Republican state convention are elected at the state primary election. The number of delegates to be chosen from each town or city is set forth in RSA 662:6, which was amended by Laws of 2022, Chapter 10, to read "At every state primary election, the voters shall elect delegates to each state party convention in the same manner and in the same proportion as state representative districts." Candidates for delegate are not required to pay any fee or file any petitions. RSA 653:6. They must be registered members of the Republican Party and must be domiciled in the town or city they are seeking to represent. A person elected at a primary as the political party's nominee or who holds elective office with a term that does not expire in the January following the

general election serves as a delegate. RSA 667:21. If the person elected delegate is entitled to serve as a delegate because he or she has been nominated for office, he or she shall not be entitled to serve as an elected delegate, and the next highest eligible vote-getter, who has received the minimum votes required by the statute, shall be elected to that delegate seat. RSA 653:6.

Currently the Democratic Party does not elect delegates. Anyone wishing to attend the Democratic State Convention should contact the Democratic State Committee. Names of those wishing to be delegates to the Democratic State Convention do not appear on the primary ballot.

Incompatible Offices

No person may file in a state primary for more than one of the following offices: governor, United States senator, United States representative, executive councilor, state senator, state representative, county commissioner, county sheriff, county attorney, county treasurer, register of deeds, and register of probate. No person shall seek or hold positions as a member of the general court and county commissioner at the same time. No person shall hold 2 of the following offices: county commissioner, sheriff, county attorney, county treasurer, register of deeds, or register of probate. RSA 655:10. For local offices, see RSA 669:7 and RSA 669:8; New Hampshire Constitution, Part 2, Article 94.

CANDIDATE'S DISQUALIFICATION OR DEATH BEFORE A PRIMARY

If any candidate dies or becomes disqualified between the close of the filing period and the date of the primary, the Secretary of State may remove his or her name from the ballot and the appropriate party committee may substitute a new candidate. RSA 655:33; RSA 655:34.

The reasons for which a candidate may disqualify himself or herself are specifically defined by statute. The candidate must make

a written oath that he or she does not qualify for the public office which he or she seeks because of age, domicile, or incapacitating physical disability acquired subsequent to the nomination or filing. These are the only reasons for which a candidate may disqualify himself or herself. RSA 655:33, RSA 655:38.

If the ballots have already been printed, the Secretary of State may print or authorize the use of pasters on the ballot. If no name is to be substituted, blank pasters may be applied to the ballot to blank out the name of the withdrawn candidate. Except as provided by law, no adhesive slips, pasters, or stickers shall be used on any ballot. The use of an unauthorized paster shall invalidate the vote for that office where it is used. RSA 656:21; RSA 659:65

PRIMARY PETITIONS

A candidate seeking the nomination of a party may use a primary petition in lieu of paying a filing fee. Each primary petition may contain the name of only one candidate and bear the signature of only one voter. The oath of the voter upon the petition is sufficient evidence that he is a member of the party stated. No voter shall sign conflicting party petitions, nor shall he sign more than one primary petition for the same office unless more than one nomination is to be made, in which case he may sign as many primary petitions as there are nominations of his party to be made for the same office. If a voter has signed two or more conflicting primary petitions, all such petitions shall be rejected. RSA 655:21; RSA 655:23; RSA 655:24.

An Assent to Candidacy/Declaration of Candidacy completed by the candidate must accompany any primary petitions filed. The candidate must complete every portion of the form, including the affidavit of qualification and the financial disclosure. RSA 655:25; RSA 15-A:3.

It is the duty of the clerk with whom the petitions are filed to examine them. If a petition is found to be in conflict with the law, the clerk shall note the reason it is not acceptable on the petition and return it within 24 hours to the candidate. For each petition that is rejected, the candidate may file a supplementary petition with the clerk no later than the last day of the filing period for declarations of candidacy. RSA 655:26.

PARTY COMMITTEE NOMINATIONS

In the event that no declaration or petition has been filed on behalf of a candidate for any office, the appropriate party committee may make a nomination to fill the vacancy by notifying the Secretary of State on or before the Wednesday following the close of the filing period. Nominations made in this manner are also subject to the payment of the appropriate fee or submission of the usual number of petitions. An affidavit of qualifications must accompany the names of the candidates within the time limit. RSA 655:29.

Any candidate who accepts a nomination by a party committee, who has already filed for an incompatible office as defined in RSA 655:10, must withdraw the prior filing. Any vacancy created by such a withdrawal may be filled by nomination by a party committee as described above. RSA 655:32.

VOTER, OFFICE HOLDER DOMICILE

Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self- government.

A person has the right to change domicile at any time,

however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. RSA 654:1.

A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I; RSA 654:1, I-a.

Domicile for purposes of voting is a question of fact and intention. A voter can have only one domicile for voting purposes. RSA 654:2.

Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law. RSA 654:1, II.

VOTER TEMPORARY ABSENCE

A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile. RSA 654:2, I.

Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues to exist until another such domicile is gained. RSA 654:2, I.

No person shall be deemed to have lost a domicile by reason of his or her presence or absence while the voter or his or her spouse:

- *is employed in the service of the United States; nor*
- *while engaged in the navigation of the waters of the United States or of the high seas; nor*
- *while a teacher in or student of any seminary of learning; nor*
- *while confined in any public prison or other penal institution; nor*
- *while a patient or confined for any reason in*

any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility. RSA 654:2, I.

Nomination Papers For General Election

A candidate who is not running as a Republican or Democrat may have his or her name placed on the state general election ballot by filing a declaration of intent and paying the administrative assessment fee, set in RSA 655:19-c, with the Secretary of State's Office during the regular state primary filing period. The candidate must later file the requisite number of nomination papers, pursuant to RSA 655:40- RSA 655:45; RSA 655:14-a; RSA 655:17-a; RSA 655:19-c.

If a person files their declaration of intent for candidacy for a state or federal office on the last day of the filing period, they must do so in person before the Secretary of State, or if filing for State Representative, with their clerk. RSA 655:43, II.

Only registered voters may sign nomination papers. See RSA 655:42 to ascertain the number of nomination papers needed for a particular office and the districts where those who sign the papers must be from. See sample nomination paper at page 436.

No voter may sign more than one nomination paper for each office and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter must fill out and sign an individual paper. Nomination papers must be dated in the year of the election. RSA 655:40; RSA 655:40-a.

SUBMITTING NOMINATION PAPERS TO SUPERVISORS FOR CERTIFICATION

The completed nomination papers must be submitted for certification to the supervisors of the checklist in the community in which the voter is registered no later than 5 p.m. on the Wednesday 5 weeks prior to the State Primary Election. The nomination paper includes a section to be completed by the

supervisors. If they confirm that the person subscribing the nomination is a voter in his or her community, the supervisors must certify this by signing in the space provided. A majority of the supervisors must certify and sign the nomination papers.

In a city, the city clerk may certify the nomination papers instead of the registrars. In this case, only the city clerk needs to sign the certificate.

The supervisors must have the certified nomination papers available for the candidate no later than 5 p.m. on the Wednesday 2 weeks prior to the primary and the candidate must submit the nomination papers to the Secretary of State no later than 5 p.m. on the Wednesday one week before the primary. When the nomination papers are submitted to the Secretary of State, they must be grouped by municipality. If they are not, the Secretary of State may reject them. RSA 655:41; RSA 655:42; RSA 655:43.

VACANCIES IN PARTY TICKETS

If a vacancy in any party ticket occurs after a primary, the appropriate party committee may appoint someone to fill the vacancy, provided they do so within 3 days of the notice of disqualification or death and further provided that the name of the substitute candidate is received by the Secretary of State no later than the Tuesday prior to the election. RSA 655:38; RSA 655:39.

POLITICAL ADVERTISING

Political advertising used in any election, including local elections, must bear the name and address of some person responsible for the advertising. RSA 664: 1; RSA 664:14. The courts have held that a communication is political advertising only if it expressly advocates the success or defeat of any party, measure, or person at any election. *Stenson v. McLaughlin* 2001 U.S. Dist. LEXIS 14167. RSA 664:17 controls the placement of political advertising (signs).

Under RSA 664:17, political advertising cannot be placed on or affixed to any public property, including highway rights of way. Nor may political advertising be placed on or affixed to private property without the owner's consent.

This law allows signs to be placed within a State-owned right-of-way, but only if the owner of the underlying land gives the person erecting the sign permission and as long as the sign does not obstruct the safe flow of traffic. The law prohibits removing signs from private property, even unlawfully placed signs, except by the owner or someone authorized by the owner of the property. The law also prohibits removing signs from public property, even unlawfully placed signs, except by law enforcement or state, town, or city maintenance personnel. When public employees remove signs prior to election day, the signs must be kept until one week after the election at a place designated by the municipality so that the candidate may retrieve the signs. RSA 664:17.

Clerk Contact/Polling Place Information In ElectioNet

Each town and city clerk shall establish and maintain an official e-mail address and street address, up-to-date polling place locations, and polling hours for each election, all of which shall be entered in *ElectioNet* and publicly available to voters. RSA 657:19-c. The Secretary of State's "Voter Information Look-up" website, and the voters who use that site, rely on the data entered into *ElectioNet* by each clerk. Voting advocacy groups routinely check each town's web site. Incomplete or outdated information will often prompt calls to the clerk's office.

PRINTING OF ELECTION MATERIALS

The Secretary of State is responsible for preparing the ballots, forms and absentee voter materials for all state elections and state referenda, including constitutional amendments. RSA 656:1.

For the purposes of facilitating the examination and recounting of votes cast, all elections shall be conducted using paper ballots. RSA 656:1-a.

REGULAR AND SAMPLE BALLOTS

Ballots for state elections are delivered to town and city clerks prior to the election. The Secretary of State determines the number of ballots to be printed for a state primary. The number of general election ballots sent is the number the Secretary of State deems sufficient for voting in the state general election. RSA 656:19; RSA 656:26.

SAMPLE BALLOTS FOR STATE AND PRESIDENTIAL PRIMARY ELECTIONS

The package of primary election ballots will include 10 sample ballots for each political party. The clerk must post 2 sets of sample ballots in public places in the town or ward within 1 day after he or she receives them. The remainder of the sample ballots are to be posted outside the guardrail in the polling area on election day. RSA 656:28.

SAMPLE BALLOTS FOR STATE GENERAL ELECTIONS

Ten sample ballots are printed and sent to the town or ward clerk. Post a sample ballot in 2 public places within the community. The remainder of the sample ballots are to be posted outside the guardrail in the polling area on election day. RSA 656:18; RSA 656:28.

ACCESSIBLE POSTING OF SAMPLE BALLOTS

At least one sample ballot for the general election and one sample ballot for each party for each of the primaries shall be posted by the town or city clerk not higher than 48" so as to be convenient for voters in wheelchairs. RSA 658:26.

ABSENTEE BALLOTS

Absentee ballots and Federal Office Only absentee ballots are also prepared by the Secretary of State. As soon as these are ready,

they are delivered to the town and city clerks along with envelopes, instructions and application forms. RSA 656:33 through RSA 656:38.

REGISTRATION FORMS & ELECTION DAY AFFIDAVITS

The supervisors of the checklist shall ensure that a sufficient quantity of voter registration forms, are available at the polling place for election day registration of all qualified persons at all elections.

The current version of the Voter Registration Form is the July 2016 form. Page 344.

Make the Domicile Affidavit form available to any applicant for registration who does not possess proof of domicile or did not bring it with him/her when registering. The statute that defines the Domicile Affidavit form, RSA 654:12, was revised by SB3 (2017) to remove the form, however, the courts have enjoined SB3, therefore the statute as it existed before SB3 is the current law.

Mandatory Voter Instruction Signs

There are currently 8 mandatory voter instruction signs that the moderator must ensure are posted at each polling place. The Secretary of State has implemented a system for numbering the mandatory voter instruction signs. Each sign has an identifying label along the lower edge. The label consists of an identifying sequential number followed by the year the Secretary published the current version. For example: #1-2022 HC General is the “Instructions to Voters” sign to be posted at a polling place for General Election day where ballots are hand counted. “#1” because it is the first of eight mandatory signs. “2022” because this is the most current version the Secretary has published and it was created in 2022. There are now four versions of the “Instructions to Voters” sign. There are different signs for the Primary versus the General election. There are different signs to be used in

towns that hand count ballots versus those who use a ballot counting device. The 2022 Attorney General’s Office Polling Place Checklists for the primary and general elections will use these labels to make compliance easier.

- #1-2022 Instructions to Voters
 - HC General for hand count towns at the General Election
 - MC General for ballot counting device polling places at the General Election
 - 2022 HC for hand count towns at the Primary Election
 - 2022 MC for ballot counting device polling places at the General Election

The Secretary of State’s Office will send each clerk just the correct version for your polling place for the next election. The “Instructions to Voters” signs will be sent separately for the Primary and after the primary for the General Election.

- #2-2022 Prohibited Acts While Voting
- #3-2022 Election Day Registration New Hampshire Voter ID Law (Purity of Elections Statutes)
- #4-2022 What Constitutes Voter Fraud (Purity of Elections Statutes)
- #5-2022 Voter ID Law, Explanatory Document, Proof of Voter Identity Instructions
- #6-2022 How are votes challenged? (Purity of Elections Statutes)
- #7-2022 Voters Needing Assistance to Mark a Ballot
- #8-2019 Are Your Voting Rights

Being Violated?

The Secretary of State will also supply the following materials, either directly or through the website, for state elections:

- Absentee ballot application (on Secretary of State's website <https://sos.nh.gov> (Last Visited 8/4/2022));
- Federal Post Card Application forms (FPCA) via the Pentagon's FVAP website;
- Regular absentee voting affidavit envelopes;
- Absentee voting affidavit envelopes for UOCAVA voters;
- Envelopes printed in black ink stating: "To the town or city clerk of" for regular absentee voters;
- Envelopes printed in red ink stating: "To the town or city clerk of " for UOCAVA absentee voters;
- Envelopes printed in black ink stating: "Enclosed is the ballot of an absent voter" for sending materials to regular absentee voters;
- Envelopes printed in red ink stating: "Enclosed is the ballot of an absent voter" for sending materials to UOCAVA voters;
- Application for an Accessible Electronic Absentee Ballot
Other forms necessary for Accessible Electronic Absentee Ballot voting are provided directly to the voter by the Secretary of State and the on-line system.
- Instructions for Absentee Voters;
- Adhesive stripped ballot box sealing certificates;
- Red sealing tape;

- Challenged Voter forms (2);
- Ballot storage boxes (red ink label); and
- Absentee Voting Materials storage boxes (blue ink label).

BALLOTS FOR LOCAL ELECTIONS

The town or city clerk must prepare regular and absentee ballots and instructions to voters for local elections. The clerk may save the purity of elections statutes poster from the state election or request an additional copy from the Secretary of State. The other forms provided by the Secretary of State may be used for local elections. However, towns are responsible for providing absentee envelopes to be used at local elections.

Any town that has adopted bylaws regarding electioneering pursuant to RSA 31:41-c must post them at each polling place at least 72 hours before any town election.

Absentee Ballots

WHO IS ELIGIBLE TO VOTE ABSENTEE?

A person may vote by absentee ballot:

1. Who plans to be absent from the city, town or place in which he is qualified to vote on the day of an election for which an official ballot is used;
2. Who is by reason of having a physical disability unable to vote in person;
3. Who is a member (or spouse or dependent of a member) of the uniformed services pursuant to RSA 654:3 and RSA 652:16-c, who will be absent on election day;
4. Who is entitled to vote as a Federal Office Only Absentee Voter pursuant to RSA 654:3;

5. Who because of observance of a religious commitment cannot vote in person;
6. Who is unable to appear at any time during polling hours at his or her polling place because an employment obligation requires the person to remain physically at work or to be in transit to or from work from the time the polls open until after the time the polls close. For the purposes of absentee voting, the term “employment” shall include the care of children and infirm adults, with or without compensation;
7. Who is elderly or infirm, has a disability, or who cares for children or infirm adults may vote absentee on the Monday before an election if the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day for the town or ward; or
8. Who is a person confined to a penal institution awaiting trial or because of a misdemeanor conviction. A person incarcerated because of a felony conviction is not eligible to register or vote while incarcerated.

The authorization to vote absentee when the National Weather Service has issued a severe weather warning applies where the voter would have voted in person but has concerns for his or her safety traveling in the storm or where the voter anticipates that school, child care, or adult care will be canceled and the voter would be deterred from voting by the need to care for children or infirm adults.

The clerk’s office is required to be open to receive applications for absentee ballots, to allow voters to complete the absentee ballots and to receive returned ballots from at least 3:00 PM to 5:00 PM on the Monday immediately prior to an election. RSA 654:7; RSA 654:12.

PUBLIC HEALTH CONSIDERATIONS AND ABSENTEE VOTING

A voter would qualify to vote by absentee ballot and register by absentee registration if, in the voter’s personal judgment based on the individual medical or health circumstances of the voter, the voter is being advised by medical authorities to avoid going out in public. This applies to a voter experiencing symptoms of any communicable disease or illness. It would also apply to a voter limiting public exposure as a preventative measure due to medical or health circumstances where voting or registering by absentee registration would be consistent with that voter’s general, preventative measures behavior. These two classes of voters have a reasonable basis to conclude that a “physical disability” exists within the meaning of RSA 654:16 and 654:17.

Clerks must send a notice of requirements and instructions for use of absentee ballot with the absentee ballot materials. See a sample notice at page 330.

APPLYING FOR ABSENTEE BALLOT

Individuals desiring to obtain an absentee ballot must apply to the town or city clerk. They may use either the form provided by the Secretary of State on its website at <https://sos.nh.gov> for this purpose or they may provide the same information in writing without the form. (Last visited 8/4/2022). The application requires an applicant to provide the applicant’s phone number and the applicant’s email address. As some voters may not possess or may opt not to provide this information, treat the application as valid if the information is missing. RSA 657:4. The phone number and email address provided are confidential and exempt from disclosure under the Right-to-Know law. RSA 654:31-a.

A uniformed services member or overseas voter who wishes to obtain an absentee ballot and is not listed on the checklist must supply the information on the Federal Post Card Application (FPCA) or equivalent

form. RSA 657:4; RSA 657:6; RSA 657:19-a.

A regular absentee voter must submit a separate written request for an absentee ballot for the primary election and the general election if the address to which the ballot will be sent is within the United States.

The law allows:

- 1) a uniformed services voter or that voter's spouse or dependents;
- 2) a voter who is located outside the country but intends to return; or
- 3) a Federal Office Only voter, to request an absentee ballot for any election in which they are eligible, using a single application. RSA 657:4; RSA 657:19-a.

Applications for an absentee ballot that are signed by the voter may be sent by e-mail attachment or facsimile to a town or city clerk. Clerks shall send absentee ballots to UOCAVA voters either by mail or e-mail, as requested by the voter. The option to email ballots only applies to UOCAVA voters. RSA 657:15; RSA 657:19.

Moderators are prohibited from conducting the signature comparison set forth in RSA 659:50, III. The United States District Court for the District of New Hampshire held that RSA 659:50, III is unconstitutional.

See: Notice Regarding the Processing of Absentee Ballots on Election Day. *ElectionNet* >Help > Instructions.

RECEIPT OF ABSENTEE BALLOT APPLICATION BY CLERK

Upon receipt of an application for a regular absentee ballot, the clerk shall determine if the applicant's name is on the checklist. The form or request must be signed by the applicant. The absentee ballot application form includes a place for the voter to indicate that he or she will qualify for one of the circumstances that permit absentee voting. If the voter applies by letter or otherwise in writing, but not using the form, the application should be accepted even if it does

not state the exception that will permit the voter to vote absentee.

If the applicant's name is not on the checklist, the clerk shall mark the absentee ballot application "Not Registered" and send the applicant a(n):

- Absentee registration form;
- Absentee ballot;
- Affidavit envelope, marked with the words "Not registered;" Return envelope, marked with the words "Not registered";
- Notice of requirements for absentee voting; and
- Written notice of what documents and forms the applicant must return in order for his or her absentee ballot to be counted (page 329). RSA 657:16.

An Absentee Ballot Registration Package can be found in *ElectionNet* under Help/Instructions.

On receipt of a request for an Accessible Electronic Absentee Ballot the clerk will scan the application and send it to NHVotes@sos.nh.gov and call the Elections Division Help Desk (603) 271-8241 to verify that it has been received. The Secretary of State will copy the clerk on the e-mail message to the voter. When the clerk receives a mailing envelope expected to contain the voter's marked absentee ballot and absentee affidavit it must be entered in *ElectionNet* in the same manner as all absentee ballots.

LIST OF ABSENTEE VOTERS MAINTAINED BY CLERK

The clerk shall maintain a listing by date, arranged by voting place, of all (regular and UOCAVA) applicants (a) who have requested an absentee ballot, (b) to whom absentee ballots have been sent and (c) who have returned envelopes purporting to contain absentee ballots. This information,

(a), (b), and (c), shall be entered without delay into *ElectioNet*. The data entry is essential to allow a voter to track the progress of his or her absentee ballot on the Secretary of State’s “Voter Information Lookup” web site. That tool is available through the secretary’s home page at: <https://sos.nh.gov/>. RSA 657:15; RSA 657:26. (Last visited 8/4/2022).

ABSENTEE BALLOT APPLICANT LIST

Clerks are required to provide the list of persons requesting absentee ballots to a candidate whose name appears on the ballot. The information provided must be limited to the voter name, voter ID number, date absentee ballot was requested and date the absentee ballot was returned. This has been the law for some time. A new law requires that if a candidate requests the list in electronic format, it must be provided free of charge. RSA 657:15, II

The list of persons requesting absentee ballots is not a public document and clerks may only provide it to a candidate whose name appears on the ballot, or his or her designee (if the designee presents a notarized request signed by the candidate or a copy of that request). Once the election is held, that person is no longer a candidate, and he or she, or his or her designee, are no longer eligible to obtain a copy. RSA 657:15.

Candidates whose names appear on the ballot for statewide office may obtain a list of absentee voter applicants from the Secretary of State. Political parties may also obtain a statewide list of absentee voter applicants from the Secretary of State. Statewide absentee voter lists are limited to voter name, voter ID number, the date the absentee ballot was requested, and the date the ballot was returned. The statewide list must be provided at least once per week and at least twice each week for the four weeks prior to the election. RSA 657:15, III-a and IV

The list of absentee voter applicants shall not be available for public inspection at any time without a court order. The list excludes

confidential voters who have presented to the supervisors of the checklist valid protective orders pursuant to RSA 173-B:4 or who are participants in the Attorney General’s Address Confidentiality program. RSA 7:43; RSA 657:15.

People interested in information on who voted absentee are, after the election, entitled to see and/or copy the checklist used on election day, where absentee voters are marked with a red ink “A.V.”, the voter is checked off, and a single thin line is drawn through the last name to mark the voter as having voted.

At the polling place on election day for all rejected absentee ballots, the moderator shall record next to the name of the absentee voter on the clerk’s list, the word “rejected” and the reason for the rejection.

A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415. The moderator also records this information on the face of the absentee ballot envelope. No entry is made on the checklist for a rejected absentee ballot. RSA 659:53.

CLERKS TO SEND OR DELIVER ABSENTEE BALLOTS

The clerk must mail (alternately, e-mail to UOCAVA voters only upon request) or personally deliver the absentee ballot, making certain that the appropriate ballot, affidavit, and instructions are enclosed. If the application for an absentee ballot does not state that the voter will be absent from town or unable to vote in person due to religious observance, physical disability, or work obligations, the clerk should also send a notice of the requirements for absentee voting. See model notice at page 330.

The clerk may designate an assistant to deliver an absentee ballot, provided that the assistant is not a candidate for office or working for a candidate. The clerk shall send absentee ballots in response to verified

absentee ballot requests until 5 PM on the day before the election. RSA 657:15.

SENDING ABSENTEE BALLOTS TO UOCAVA VOTERS

Upon receipt of a properly executed application for an absentee ballot from a UOCAVA voter, whether the FPCA form (page 334), a Federal Write-in Absentee Ballot (FWAB) (page 338), or a written statement containing the required information, a town or city clerk shall retain the application and, without delay, enter the application into *ElectioNet*. RSA 657:10-b; RSA 657:19; RSA 657:26.

The clerk shall send the appropriate ballot and materials, regardless of whether the applicant appears on the checklist. Upon receipt of an outer envelope from an unregistered applicant, the clerk shall open the outer envelope.

It is best practice to enter the applicant into *ElectioNet* in the “Pending” status, which allows the clerk to enter the voter and the date the ballot was received in *ElectioNet*'s absentee ballot tracking system. This ensures the voter can look up the status of their absentee ballot on-line using the Voter Information Look-up tool available at: <https://app.sos.nh.gov/>. (Last Visited 8/4/2022). Entering the data into *ElectioNet* also ensures that the voter will appear on the clerk's absentee ballot list.

Forward any voter registration documents to the supervisors of the checklist. Any clerk who finds a UOCAVA absentee ballot application to be invalid shall provide the voter with the reason why it is invalid within 7 days of receipt of the application. RSA 657:19, X.

Send absentee ballots without delay to UOCAVA voters either by mail or e-mail, as requested by the voter. RSA 657:19.

ABSENTEE BALLOTS FOR EMERGENCY SERVICE WORKERS

If an emergency services worker receives notice after noon on the Friday before an election that he or she is being called into service under circumstances that will prevent that person from voting in person or absentee using the usual procedures, the Secretary of State's Office should be informed. The Secretary of State with assistance from the Attorney General and the Department of Safety will make every reasonable effort to get absentee ballots and materials to these emergency service workers and back to the local polling places.

One important effect of this law is that it waives the usual requirement that ballots be received at the polls by 5:00 P.M. Under this law any absentee ballot received before the polls close from a deployed emergency services worker, if found properly qualified, must be counted.

Local election officials should make an effort to ensure that local emergency services workers are aware of this law. In the event of a local emergency that ties up local emergency services workers and prevents those who planned to vote in person at the polls from doing so, local officials should contact the Secretary of State and make arrangements for a local official to transport absentee ballots and materials to the site of the local emergency and afford qualified emergency services workers the opportunity to cast absentee ballots. RSA 657:21-a.

VOTER TRACKING OF ABSENTEE BALLOT

The clerk should provide instructions to absentee voter applicants describing how to access the Secretary of State's website to determine whether:

- Their absentee ballot request was received;
- The clerk has sent the absentee ballot to the voter;

- Their returned ballot was received by the clerk; and
- The absentee ballot was counted or rejected by the moderator.
- If rejected, the reason for rejection.

A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415. Voters can log on to the Secretary of State's website to determine the status of their absentee ballot. RSA 657:26.

ADVERTISING ENCOURAGING USE OF AN ABSENTEE BALLOT

Political parties and candidates sometimes promote voter turnout by sending out materials promoting voting by mail. New Hampshire only permits voting by mail using an absentee ballot for limited reasons. To be qualified to use an absentee ballot, a voter must be unable to vote in person due to having a physical disability, religious observance, absence from the jurisdiction or must be unable to vote in person at the polling place because he or she will be at work or commuting to or from work from the time the polls open until after the time for the polls to close. For the purposes of being entitled to vote by absentee ballot, being at work includes the care of children and infirm adults, with or without compensation. A person confined to a penal institution awaiting trial or because of a misdemeanor conviction also may vote by absentee. A person incarcerated because of a felony conviction is not eligible to register or vote while incarcerated. RSA 657:1.

INCARCERATED PERSONS; ADDRESSES

When completing a voter registration form or an absentee ballot application, an incarcerated person must list the address of his or her domicile prior to incarceration in the address section and the address of the penal institution in the mailing address section. RSA 654:2- a.

INCARCERATED PERSONS; ABSENTEE VOTING CLARIFICATION

A voter who is incarcerated for a misdemeanor or who is being held in a penal institution while awaiting trial has the right to vote by absentee ballot. The absentee ballot application form and absentee ballot affidavit envelope have been changed to add this to the list of recognized reasons a person may vote by absentee ballot. RSA 657:4 and RSA 657:7.

RSA 657:4, II requires that anyone promoting voting by absentee ballot in any written advertising include a copy of the state application for an absentee ballot or a facsimile of that form.

“Any person that publishes, mails, or distributes forms as described in subparagraph (a) (absentee ballot promotions) as part of any communication that is made for the purpose of promoting the success or defeat of a candidate or candidates or measure or measures, as defined in RSA 664:2, shall be identified in the same manner as political advertising under RSA 664:14.” RSA 657:4, II(b).

The State issued absentee ballot request form contains a list of the lawful reasons that allow an individual to vote by absentee ballot. Please monitor the applications that come into your office. If you see pre-printed applications that appear to have been altered or have come from political advertising but do not include the qualifications or requirements for voting absentee, immediately alert the Attorney General's Office. It is unlawful for anyone to vote or attempt to vote by absentee ballot who is not entitled to do so. RSA 657:24. It is also unlawful for others, including campaigns, to conspire with others to violate this law. RSA 629:3. This procedure is intended to reduce the frequency of voters being misled to believe that they can vote absentee without justification.

UNLAWFUL USE OF AN ABSENTEE BALLOT

Anyone who votes or attempts to vote under the provisions of this chapter who is not entitled to vote by absentee ballot or anyone who votes or knowingly attempts to vote in violation of any provision of the Absentee Voting law, RSA Chapter 657, shall be guilty of a misdemeanor.

Election officials suspecting that a voter has voted using an absentee ballot when that voter was able and available to come to the polls and vote in person should notify the Attorney General's Office.

However, the person's absentee ballot, if the affidavit otherwise satisfies the law and the voter is otherwise qualified as a voter, must be cast and counted.

A person loses his or her right to vote and to have his or her vote counted only if the voter is an incarcerated felon or has been convicted of a willful violation of the election laws. New Hampshire Constitution, Part 1, Article 11; RSA 607-A:2. Therefore, it would violate the voter's rights to refuse to count his or her ballot because of suspicion that he or she wrongfully used an absentee ballot when he or she was required by law to vote in person at the polls. While New Hampshire is a vote-in-person-at-the-polls state, it is important not to violate a person's right to vote by not counting their ballot based on a yet-to-be-proven suspicion that they are improperly voting absentee. Even if convicted the voter likely will not lose the right to vote.

Absentee Voter – Not Registered

Upon receipt of an outer envelope marked "Not Registered" the clerk shall open the outer envelope. If the applicant returns the required documents in proper form, it is best practice for the clerk to enter the applicant into *ElectioNet* in the "Pending" status, which allows the clerk to enter the voter and the date the ballot was received into *ElectioNet's* absentee ballot tracking system.

The voter, however, cannot look up the status of their absentee ballot on-line until the Supervisors meet and approve the application. Entering the data into *ElectioNet* also ensures that the voter will appear on the clerk's absentee ballot list. Forward any voter registration documents to the supervisors of the checklist.

If the supervisors find the applicant is qualified, he or she shall be added to the checklist and the absentee ballot shall be processed in the same manner as the absentee ballot of a previously registered voter.

The town or city clerk shall notify individuals with deficient or incomplete absentee ballot application documents of the deficiency within 7 days of receipt of the application. RSA 657:16.

If the voter returns the absentee ballot without the required registration documents in the proper form, the ballot, in its envelopes, shall be brought to the polling place, ruled on by the supervisors, marked, and preserved in the manner set forth by law for a successfully challenged absentee ballot. The supervisors shall notify the moderator who shall reject the absentee ballot as "Not a registered voter." RSA 657:16.

The affidavit envelope, with its contents, of a successfully challenged absentee voter shall be preserved unopened, stored with the ballots, and destroyed unopened when the time comes for destruction of the ballots from that election. RSA 657:16.

The supervisors shall write an adequate description of their decision on the Asserting a Challenge form (page 324) or otherwise in the voter's records. The clerk shall note the outcome of the challenge on the clerk's absentee ballot list. RSA 654:7; RSA 654:13; RSA 657:16; RSA 657:26; RSA 659:27-a; HAVA Section 703.

Notice To Voters Of Rejected Absentee Ballot

As a best practice, not required by law, the

moderator or clerk should send all successfully challenged absentee voters a notice.

This is best practice, not required by law. Advise the voter that his or her absentee ballot was successfully challenged or was rejected by the moderator, as well as the grounds for the challenge and the reason for rejection. This notification allows the voter to correct the deficiency when voting at future elections.

All persons whose voter registration application has been rejected shall be provided notice by the supervisors within 7 days. RSA 657:16; RSA 657:19, X.

The moderator shall not unilaterally reject an absentee ballot for a challenge to the voter's age, citizenship, or domicile without first obtaining a ruling from the supervisors of the checklist, and completing a signed Asserting a Challenge form. RSA 659:27; RSA 659:27-a.

If the supervisors determine, based on the challenge, that the absentee voter is not qualified as a voter, following the election, the supervisors must initiate removal from the checklist by sending the voter a 30-day letter, except where there is an official notice of death, notice of transfer of voter registration, or notice of a permanent move out-of-town from the USPS or Division of Motor Vehicles.

DEADLINE FOR RETURN OF MARKED ABSENTEE BALLOTS

A voter who has received an official absentee ballot must either mail, personally deliver, or have a delivery agent deliver it to the city or town clerk. RSA 657:17.

Town and city clerks must be available for absentee voters to request or drop off a completed absentee ballot in its envelopes between 3 and 5 p.m. on the day before any election. This is the deadline for absentee ballots personally delivered by the voter. RSA 652:20

If a voter brings his or her absentee ballot in person to the polling place on election day, the voter must be instructed to vote in person using an election day ballot. The voter can either keep the absentee ballot/affidavit envelope or if turned in, it must be rejected, preserved unopened, and marked "voted in person."

Absentee Ballots delivered by mail shall be accepted no later than 5 p.m. on election day. RSA 652:20; RSA 657:22.

A delivery agent may hand deliver an absentee ballot to the town or city clerk's office or, on election day, to the town, city or ward clerk at the polling place as late as 5:00 PM. Only the following are authorized by law to serve as a delivery agent:

- The voter's spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild;
- The administrator or administrator's designee of a nursing home, if the voter is a resident of the nursing home;
- The administrator or administrator's designee of a residential care facility, if the voter is a resident of the residential care facility; or
- A person who assists a voter with a disability with voting absentee and signs his or her name on the affidavit on the line for identifying a person who assisted the voter. This type of delivery agent is limited to delivering no more than 4 absentee ballots in any election.

RSA 657:17. A delivery agent must sign an Absentee Ballot Return Form when delivering an absentee ballot on election day. RSA 657:17. As a best practice, even before election day, clerks should request that delivery agents complete an Absentee Ballot Return Form when delivering absentee ballots to the clerk's office. A completed form helps the clerk ensure the absentee

ballot is received from a person authorized by law to make the delivery.

RECEIPT OF MARKED ABSENTEE BALLOTS BY CLERK

Upon receipt of a return envelope purporting to contain an official absentee ballot, the clerk shall attach the voter's absentee ballot application to the return envelope. The clerk shall enter the return date of the absentee ballot in *ElectionNet*.

The envelopes shall be preserved unopened until they are processed on election day. RSA 657:18. Upon receipt of a return envelope marked “not registered” or purporting to contain registration information for UOCAVA voters, the clerk is authorized to open the outer envelope and deliver the registration information to the supervisors of the checklist. RSA 657:16; RSA 657:21.

Any absentee ballots received in the mail prior to 5 p.m. on election day must be presented to the moderator for processing.

DEATH OF AN ABSENTEE VOTER

If the election officials counting ballots have knowledge that an absentee voter has died prior to the opening of the polls, do not open the absentee affidavit envelope and do not count the vote. RSA 659:48. Consult with the supervisors of the checklist. The election official with knowledge of the death must complete an Asserting a Challenge form. Use “The person seeking to vote is ineligible to vote pursuant to . . .” option and fill in “RSA 659:48.” RSA 659:48; RSA 659:27-a.

FEDERAL POST CARD APPLICATION

The United States Department of Defense makes available on its web site “Federal Post Card Applications” (FPCAs) for voter registration and absentee ballots. The form serves in New Hampshire as a request for an absentee ballot and an absentee registration application. The form is updated every few years, treat prior versions as valid.

An absentee ballot request by a UOCAVA

voter on an FPCA received on or after January 1 of each year shall be valid through December 31 of the same year for all state and municipal elections held within that year, subject to the request of the voter and the eligibility of the voter. An absentee ballot request made the year before a presidential primary will be valid through the presidential primary in the following year. RSA 657:19-a.

The clerk should make a copies of the FPCA or other written request that contains all the required information for an absentee ballot request, , keep copies in the UOCAVA folder(s) for that year, and attach the copy to each return envelope prior to processing on election day. Best practice is to maintain one folder for each election to hold all outstanding absentee ballot requests for that election. If the applicant is not registered submit the original FPCA to the supervisors of the checklist. RSA 657:19; RSA 657:19-a.

SELECTING PARTY AFFILIATION - FEDERAL POSTCARD

If the voter does not indicate a party affiliation, he or she cannot vote in a primary election. Clerks are encouraged to reach out to those voters who are undeclared and who request an absentee ballot for a primary without identifying the party with which the voter seeks to affiliate. Political party affiliation is not required to vote in a general election.

BEST PRACTICES FOR PROCESSING ABSENTEE BALLOTS ON ELECTION Day

Key takeaways are organization and an early start.

An absentee voter should return a marked absentee ballot inside the inner envelope, which has the absentee affidavit printed on the envelope. That affidavit or inner envelope should be placed inside the outer or mailing envelope. Clerks will place a label on this outer envelope printed with the voter's name, address, and voter ID number, with a

bar code for scanning. The terms “inner envelope” and “affidavit envelope” refer to the same envelope. The terms “outer envelope” and “mailing envelope” refer to the same envelope.

PRE-ELECTION DAY:

1. Organize returned absentee ballots alphabetically by last name. In cities, also organize by ward.
 - a. Separate returned absentee ballot envelopes that are marked “Not Registered” where the supervisors have not received the applications for absentee voter registration.
2. On the final checklist you will use at the election, highlight the names of voters who returned Absentee Ballot envelopes. **ElectioNet will print the names of voters who requested absentee ballots in bold, to help identify them when processing absentee ballots. Absentee ballot requests received and entered into ElectioNet after the checklist is printed will not be in bold.**
3. At least 24 hours before the polls open, post the time when your polling location will:
 - a. Cut open the Absentee Ballot outer envelopes without removing the affidavit envelope (the earliest time allowed by law is the time when your poll opens, which is highly recommended) RSA 659:49-b; and
 - b. Process Absentee Ballots (the earliest time allowed by law is **2 hours after the polls open**, which is highly recommended) RSA 659:49, I.

ELECTION DAY:

Processing an absentee ballot occurs within the rail in an area chosen by the moderator that will not interfere with in-person voters checking in, using voting booths/screens, and depositing their ballots in the ballot box/ballot counting device. Only checking and marking the checklist, which is the final step before casting the ballots, should occur at the check-in table(s).

1. Deliver absentee voter registration forms returned by applicants in the outer envelope to the supervisors. Keep the sealed absentee affidavit envelopes and outer envelopes together and set aside to process after the supervisors finish their review of registration applications.
 - a. The supervisors review the voter registration form, absentee registration affidavit, and supporting proof documents, then vote whether to add the applicant to the checklist.
 - b. If the application is approved the voter’s name must be added to the checklist in the same manner as an in-person election day registrant.
 - c. The moderator and supervisors should agree to an efficient way for the moderator to be informed of who is added to the checklist and/or when all pending absentee applications have been processed and all approved voters have been added to the checklists.
 - d. If the supervisors deny any applications, notify the moderator. The moderator will reject each applicant’s absentee ballot as “not a registered voter.”
2. Group the Absentee Ballots into manageable batches in sections of the alphabet matched to the sections of the alphabet assigned to each

- check-in station. You may do this before Election Day.
3. The Moderator should staff as many people as necessary to open the outer envelopes of all Absentee Ballots. With the time properly noticed, you can begin opening the outer envelopes when your polling location opens. Train staff to keep the ballots in the alphabetical groups.
 4. With the time properly noticed, you can begin to process Absentee Ballots as early as 2 hours after your polling location opens to voting.
 5. Publicly announce the processing of absentee ballots. Allow appointed party challengers and the public to observe processing from outside the rail in a position where they can hear the moderator’s announcement of each voter’s name. RSA 659:50.
 6. For each Absentee Ballot:
 - a. Verify the voter’s name is on the checklist. At this step, if you have separated out the affidavit envelopes from voters who have also submitted applications for absentee voter registration, it is OK to rely on the clerk’s list. You will confirm that the voter is on the checklist at the final step when marking the checklist with a red “A.V.”
 - b. Determine if the voter properly executed the affidavit envelope. An affidavit is properly executed if:
 - 1.The voter has completed the affidavit and signed it with a legible signature;
 - 2.If the affidavit is signed with an illegible signature, you must assume it is the voter’s name; or
 - 3.There is no voter signature on the affidavit envelope, but there is a name and signature of a person assisting the voter. You must assume the voter has a disability that prevents the voter from signing his or her name and treat the affidavit as properly signed.
 - c. Reject an absentee ballot based on failure to properly execute the affidavit if:
 - 1.There is no signature on the line for the voter’s signature and no name or signature on the line for a person assisting the voter; or
 - 2.The line for the voter’s signature has a clearly legible signature and the name is that of someone other than the voter.
- The absentee ballot affidavit envelope was amended by Laws of 2021, Chapter 96, HB 555 and now does not require the voter to mark the specific circumstance that permits use of an absentee ballot. The voter signs the affidavit which states “One of the following applies to me:”.
7. Unless the voter is a confidential voter, publicly announce the absentee voter’s name.
 - a. Receive and process any challenge to the absentee voter. See page 93 for managing a challenge to an absentee voter.
 8. At most polling places perform these earlier steps one at a time for each absentee ballot envelope, however, if a polling place has a high volume of absentee ballots to process, the moderator may appoint deputy or assistant moderators to simultaneously process batches of absentee ballots.
 9. If processing a large volume of absentee ballots, have more than one moderator/deputy/assistant

assigned to each alphabetical batch processed to this step. The absentee ballot must remain in the affidavit envelope, kept with the outer envelope until just before the checklist is marked.

10. Open the affidavit envelope so that the affidavit is not destroyed and remove the absentee ballot without unfolding or allowing the ballot to be examined. Confirm the contents of the affidavit envelope is one ballot (except where voters are issued multi-page ballots or ballots for more than one election, i.e. town and school.) At a primary, confirm the ballot is a ballot for the party with whom the voter is a registered member. For a voter registered undeclared, confirm the ballot is for the party the voter requested according to the absentee ballot application. Reject the absentee ballot if the voter returned more than the permitted number of ballots or at a primary returned a ballot from a party different than the voter's registered registration or for undeclared voters different from the party stated on the absentee ballot request form. Return rejected ballot(s) to the envelopes, seal the envelope, and mark the envelope and the clerk's list with the reason for the rejection.

- A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415.

11. Working with the ballot clerk(s) managing the check-in for names in the alphabetized batch of Absentee Ballots, determine if the checklist is marked showing the Absentee Voter has already voted in person. Keeping the absentee ballots/envelopes in

alphabetical order and using a highlighted checklist will speed-up the process of finding the voter's name.

- a. If the voter has already voted, return the ballot to the envelope, seal the envelope, mark the affidavit envelope and the clerk's list "rejected voted in person."
- b. Preserve the rejected absentee ballot, sealed in the inner envelope and kept with the outer envelope with other ballots from the election. Ideally, put the rejected absentee ballot envelopes in a larger envelope or box marked "rejected absentee ballots." Seal that envelope/box in the boxes of ballots from the election sealed up after counting is complete and the results announced.

12. If the voter has not already voted in person, the ballot clerk must mark an "A.V." in red ink, make a checkmark in the box for checkmarks, and draw a thin line through the Absentee Voter's last name. At a primary, if the voter is on the checklist as undeclared, write in the "Party" column the three-letter abbreviation for the party whose ballot the voter is casting. Repeat these steps for your entire batch of Absentee Ballots.

13. For absentee ballots that will be cast, separate the inner and outer envelopes from the absentee ballot. Preserve the envelopes with the ballots from the election. RSA 659:52; RSA 659:101.

14. If the envelopes contain an "Undeclared Voter Election Day Party Affiliation Change Form," that form must be placed with the forms completed by in-person voters. After

the election, the supervisors must enter the change back to undeclared into *ElectioNet*.

15. Take the batch of Absentee Ballots to be cast to the ballot box or ballot counting device. Handle the ballots so that no one can see how the voter marked the ballot. Cast the ballot into the ballot box or ballot counting device. Keep the envelopes with the attached absentee ballot application secure until placed into the sealed ballot storage boxes after counting is complete.

Notice Of Voter Photo Identification Requirements

Every town and city clerk, and the governing body of each town or ward, shall prominently display a notice prepared by the Secretary of State explaining the photo identification requirements for voters. The notice directs voters to the Department of State's website for additional information. Display the notice for at least 14 days prior to each election. RSA 652:25; RSA 658:29-a

MODERATOR MUST PREPARE POLLING PLACE STAFF

The moderator is responsible for making certain that each of the election officers and inspectors of elections/ballot clerks understands his or her specific responsibilities. RSA 659:9.

Inspectors Of Elections/Ballot Clerks

Between May 15 and July 15 of each general election year, the state chair of each of the two major political committees should appoint inspectors of election (ballot clerks) to act at each polling place. Generally, there are at least two ballot clerks at each check-in station, one for each of the two major parties. The statute provides that if the number of voters at the polling place exceeds 2000, the parties may appoint 1 additional inspector for each 1500

voters. RSA 658:2.

BALLOT CLERK STAFFING LEVEL

Best practice is to have one check-in station for every 600 expected in-person voters. Ideally, staff each check-in station with two ballot clerks, one affiliated with each political party. Consider voter turnout at the most recent similar election (except 2020 which had atypical absentee voting) and the comparative number of voters on your checklist to estimate expected in-person voting. For example, for a general election in a year when U.S. President is on the ballot, start with the turnout at the last general election where the U.S. President was on the ballot (4 years previous). Adjust the estimate up or down based on the percent change in the number of voters on your checklist. Consider turnout trends at the most recent elections and trends in use of absentee voting. If warranted adjust your estimated in-person turnout accordingly.

The objective is to have a sufficient number of check-in stations so that a registered voter will check in and receive a ballot promptly. Each check-in station serves voters whose last name starts with a letter in one section of the alphabet.

A registered voter should not have to wait more than 15 minutes to get a ballot, and most should receive their ballot more quickly.

POLITICAL PARTY APPOINTMENT

By April 15 of each general election year, the Secretary of State shall provide a list to the chair of each such state political committee of the number of inspectors of election (ballot clerks) that should be appointed for each town or ward based on the statutory minimum. RSA 658:2.

If any such appointments are not made by the chair of the state political committees and proper notification thereof given on or before July 15, the selectmen in the town or wards concerned shall make the

appointments of the inspectors of election (ballot clerks) in equal numbers between the two major political parties. If the moderator so requests, the political parties may appoint on an equal basis an additional number of inspectors as the moderator deems necessary. RSA 658:2.

The moderator chooses the ballot clerks from among the inspectors of election. Two clerks are chosen, one from each political party for each check-in position (section of the checklist divided alphabetically so there are approximately equal numbers of voters in each section). Under the supervision of the moderator, the ballot clerks shall have charge of the ballots during the time the polls are open and shall furnish ballots to the voters. RSA 658:25; RSA 659:13.

The inspectors who are not designated as ballot clerks are assigned duties by the moderator at the polling place, such as relieving the ballot clerks, greeting voters and assigning voters to appropriate lines, and assisting voters requiring assistance in marking their ballots. RSA 658:25; RSA 659:20.

OATH OF OFFICE REQUIRED

Inspectors of elections (ballot clerks), appointed assistant election officials, moderators pro tempore, supervisors pro tempore, clerks pro tempore, and selectmen pro tempore, including anyone recruited to count ballots, all must take an oath of office before engaging in the duties of their position. See Swearing in of Election Officials at page 128 and page 318.

A blank Oath of Office template is available in *ElectioNet* and at page 317. The wording of the Oath of Office is set forth in the New Hampshire Constitution, Part 2, Article 84. Officials administering an oath must file the completed Oath of Office forms with the clerk. RSA 42:1; RSA 42:7; RSA 42:8; RSA 658:4.

In addition to being a formal requirement of

law, taking the oath of office helps ensure the individual understands that he or she is agreeing to fulfill the duties assigned by law to the office/position and that he or she will be subject to the consequences established in law for knowingly failing to perform those duties. RSA 42:1-a; RSA 92:2; RSA 643:1; RSA 666:3; RSA 669:9.

Disqualification of Election Officials

Two statutes govern disqualification of election officials in certain circumstances, RSA 659:58 and RSA 658:24. Both statutes are revised by SB 242.

“Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than a position as an election official, is to be disqualified from performing duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than the position of an election official, shall be disqualified from handling of marked ballots and counting of votes pursuant to RSA 659:58.” RSA 658:24.

“Any election official who is also a candidate for office, other than a position of an election official, shall not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he is a candidate. Such official shall disqualify himself from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the election official who is disqualified until such official may properly return. The moderator may assign any election official disqualified pursuant to this section to other duties not related to the tabulation of votes.” RSA 659:58.

Together, these statutes provide that:

- All election officials and inspectors of election, on the ballot seeking only an election official office, may perform their election official duties.

- All election officials on the ballot seeking an office other than a position as an election official, are disqualified from handling marked ballots, counting votes, and may not be within the area designated for ballot counting within the guardrail during the counting of votes for an office for which he or she is a candidate.

- A person who is not a moderator, clerk, selectman, inspector of elections, or supervisor of the checklist, whose name appears on the ballot for an office other than as an election official, is disqualified from performing duties as an election official in that election. For example a candidate for State Representative cannot serve as a deputy moderator, assistant clerk, or ballot clerk.

- An Inspector of Election (Ballot Clerk) whose name is on the ballot for either an election official or other office is not disqualified from serving as a ballot clerk, but may not handle marked ballots or count ballots.

When an election officer is disqualified, the moderator appoints an assistant, who must take the oath of office, who would fulfill any duties regarding tabulation of votes.

The “tabulation of votes” is the counting of votes, whether hand counting ballots or the printing of the ballot counting device results tape. It would also include the aggregation of results from the tapes and hand counting, as well as reconciliation.

Duties “not related to the tabulation of votes” would include clearing voting booths of signs, packing away voting screens, assisting with counting the number of voters marked on the checklist as having voted or inventorying unused ballots.

Any election official whose name is on the ballot for any office who does not voluntarily recuse himself or herself from performing their election duties, must exercise due care to avoid electioneering while in the performance of his or her duties. RSA 659:44

makes it a misdemeanor for an election officer to electioneer while in the performance of official duties. Election officials in this circumstance should have a prepared response to questions or comments that avoids saying anything that is designed to influence the vote of any voter or which would appear to a reasonable third party to be electioneering.

Election officials in towns that have adopted an electioneering ordinance pursuant to RSA 31:41-c or a conflict of interest ordinance pursuant to RSA 31:39-a must also review those ordinances to ensure the ordinances do not create a duty for the official to disqualify himself or herself.

The absence created in the position of election official or any other temporary absence must be filled as follows:

- a) A moderator pro tempore shall be appointed by the moderator if the moderator is absent or disqualified. RSA 658:19.
- b) A supervisor pro tempore shall be appointed by the moderator, if more than one member of the board is absent or disqualified. RSA 658:21.
- c) A town or ward clerk pro tempore shall be appointed by the town or ward clerk if a clerk is absent or disqualified. If a town or city ward has a deputy clerk, the deputy clerk would fill in for the absence or disqualification of the clerk. RSA 658:20.
- d) A selectman pro tem may be appointed by a selectman who is absent or disqualified. If such selectman has not appointed a selectman pro tem, the moderator is authorized to appoint a selectmen pro tem. RSA 658:21-a.
- e) An inspector of election shall be appointed by the selectmen if an inspector of election is absent or disqualified. RSA 658:22.

- The moderator’s authority to appoint “*such other election officials as he or she deems necessary*” encompasses appointing individuals as an assistant election official to serve as a ballot clerk. RSA 658:7.
- f) For a school district election, a school board member pro tem shall be appointed by the absent school board member. If one or more school board members are absent or unable to perform their duties and have not appointed school board members pro tem, the moderator is authorized to appoint school board members pro tem. RSA 671:28-a,.

An election officer pro tempore shall have all the powers and duties of the officer he or she replaces as provided in the election laws.

The term “election official” includes the town clerk, ward clerk, deputy town clerk, city clerk, deputy city clerk, selectmen, moderator, supervisors of the checklist, registrar or deputy registrar, and any assistants appointed in accordance with RSA 658:7. The term “election officer” is specifically defined in RSA 652:14. The terms “election officer” and “election official” are generally interchangeable. If a school district conducts a separate election, the term would also include, for that election, the school district clerk, school moderator, and school board members. Any official so appointed will have the same duties and authority as the “election official” who was disqualified. RSA 658:23; RSA 658:24.

ADDITIONAL ELECTIONS STAFF

The moderator may appoint an assistant moderator and such other election officials, as he or she deems necessary. The town clerk, upon request of the moderator, may appoint an assistant town clerk. The supervisors of the checklist may appoint an assistant supervisor of the checklist who will be an assistant election official and have the power of the supervisor for the purpose of

registering voters on election day. RSA 658:7.

The term of office of each of the assistant election officials appointed as provided in RSA 658:7 shall expire at the close of the proceedings at the election for which he or she was appointed. RSA 658:8.

Seventeen year-olds, while not eligible to vote at an election, may be appointed as election officials. Communities should consider recruiting young people to serve as election officials as a way of encouraging broad participation in the democratic process. RSA 658:7; RSA 658:7-a.

CHOOSING THE POLLING PLACE

The selectmen of the town or ward must provide a suitable site in which to hold the election. Choose a well-known site, such as the town or city hall, school gymnasium, fire station, etc. The room where the voting is held must be large enough to accommodate voters, election officials, and to have a public area where people can watch the conduct of the election. It must also be well-lit and heated. The polling place must be furnished with the proper supplies and conveniences.

New Hampshire’s Constitution, as well as Federal and State law, require that all registration and polling places be accessible to elderly voters and voters with disabilities. 52 U.S.C. § 20102; New Hampshire Constitution, Part 1, Art. 11. An accessible polling place must have an entrance that is either at ground level or provided with a ramp; walkways which are level and continuous; smooth, even floors with no thick mats or carpets which could trip a person or block a wheelchair; doors which can be easily opened without twisting a doorknob. The polling place must be well-lit. Large and clear signs must identify the route to the check-in table. Post voting instructions at levels visible to those in wheelchairs. RSA 658:9-a. See further discussion of accessibility starting at page 271.

If your registration and polling place facilities are currently inaccessible, it is the responsibility of the selectmen of the town or ward to ensure that either a new accessible polling place is secured, or that the current facilities are made accessible. The moderator has a duty to ensure that this occurs. Any election officer may contact the Secretary of State's Office, Governor's Commission on Disability (271-2773), Granite State Independent Living Foundation (228-9680), or other advocacy groups for persons with disabilities for assistance in identifying accessibility problems and advice on solutions. See additional information on accessibility starting at page 271.

EQUIPPING THE POLLING PLACE

The selectmen are responsible for providing a ballot box, pencils or pens for marking AccuVote ballots, voting booths, a United States flag and guardrail. The clerk must bring the ballots, absentee ballots, checklist, one4all accessible voting system, and election forms supplied by the Secretary of State for election day. In ballot counting device towns, the clerk must also bring the AccuVote device. RSA 658:9. See further discussion starting on page 260.

Each polling place must have at least one voting booth which is easily accessible to the elderly and to persons with disabilities. The dimensions and restrictions on this voting booth are outlined in RSA 658:9, III.

Each polling place must also have at least two table-top voting screens available for use in an election. The dimensions and placement requirements of the voting screens are outlined in RSA 658:9, IV. The formula for calculating the minimum number of voting booths and screens that need to be erected for an election is:

- 1) For a general election where votes will be cast for president, one for every 100 voters on the checklist. This requirement may be modified with the approval of the Secretary of

State and the attorney general if the conditions within the polling place will not permit the required number of voting booths. Under no circumstances will the required number of voting booths drop below one booth for every 125 voters;

- 2) For a general election where votes will not be cast for president, one for every 125 voters on the checklist;
- 3) For all other state elections, including the state primary election, one for every 150 voters on the checklist; and
- 4) For all city, town, school district, and village district elections, one for every 200 voters on the checklist.

These minimum requirements may be satisfied with any combination of booths or screens, provided that no more than 50 percent of the minimum requirement is satisfied by voting screens and that each polling place must never have fewer than one voting booth which is easily accessible to the elderly and to persons with disabilities and two voting screens for use in an election. RSA 658:9, V.

Portable booths set up in pods of up to 4 voting stations may be used in lieu of booths described in RSA 658:9, II and screens described in RSA 658:9, IV. Each voting station in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep and the edge of the table facing the voter no less than 25 inches in width. The third open side of the voting station shall be enclosed by a curtain large enough, and designed in a way to give the voter privacy. RSA 658:9, VI.

The supervisors and the town clerk must supply a sufficient quantity of voter registration forms, July 2016 version, page 344; Qualified Voter Affidavits, page 321;

Domicile Affidavits, page 320; Challenged Voter Affidavits, page 322, Affidavits of Religious Exemption, page 323, and “Asserting a Challenge” forms, page 324, for use on election day.

PRIMARY ELECTION – RETURN TO UNDECLARED LIST

At each primary a “return to undeclared signature list” of undeclared voters must be printed from *ElectioNet*, to allow undeclared voters who declare an affiliation and vote in a party’s primary, to return to undeclared status on election day. See page 438. RSA 654:7-a; RSA 654:7; RSA 654:34.

ElectioNet is designed to print a list of all undeclared voters that contains bar codes for each voter and party choice. When a voter signs this list indicating that he or she desires to change their party affiliation after having voted in a primary, the supervisors can use the bar code reader issued as part of the *ElectioNet* system to quickly and easily enter the record of party changes into *ElectioNet*. The sheets containing the signatures of those voters who choose to change party affiliation must be preserved. Bring the sheets to the next primary to help resolve future disputes about whether the voter actually did change party affiliation. RSA 33-A:3-a.

Also print and bring copies of the “Undeclared Voters Election Day Party Affiliation Change Form” available in *ElectioNet*. See page 439.

This form may only be used by a person who registers on primary day as undeclared, declares affiliation at the check-in, votes in a party’s primary, and then wishes to change back to undeclared. As a new voter, that person’s name will not be on the “return to undeclared signature list” because he or she will not yet have been entered into *ElectioNet*.

Best practice is to bring the “return to undeclared signature list” and completed “Undeclared Voter Election Day Party

Affiliation Change Forms” and a copy of the checklist used at the primary to the next primary. Use these records to show voters who do not remember affiliating with a party or that they failed to sign the list returning to undeclared.

BALLOT COUNTING DEVICES

The mayor and aldermen of a city or the selectmen of a town may elect to use electronic ballot counting devices in their communities. RSA 656:40. Notify the Secretary of State of any decision to use a ballot counting device. Once properly adopted, “electronic ballot counting devices shall be used in said town or city” at future elections. RSA 656:40.

The make and model of all electronic ballot counting devices either purchased or leased must first be approved by the Ballot Law Commission. RSA 656:40-43. The AccuVote optical scanning device, version 1.96.13, has been approved for use in New Hampshire elections.

If a special state election for state representative occurs in a town that has adopted electronic ballot counting devices, the Secretary of State may prepare and issue paper (hand-counted) ballots, which shall be used in that election.

Extra ballots are supplied to towns that use AccuVote electronic ballot counting devices. These ballots must be used to test the devices for accuracy in tabulating votes. See instructions for security and testing electronic ballot counting devices at page 369. RSA 656:42, VII and VIII.

Monitor and empty the storage bin under the ballot-counting device each time the accumulated ballots cast nearly fill the bin.

BALLOT COUNTING DEVICES – NO INTERNET CONNECTION

The Ballot Law Commission ordered that all ballot counting devices be modified to remove the modem and disable the serial

port. April 9, 2010 Ballot Law Commission Order. RSA 656:42 has been amended to make it a statutory requirement that the device be incapable of connecting to the internet. *“No electronic ballot counting device shall have access to or be connected to the Internet.”* RSA 656:42, X. HB1157 (2022).

POSTING OF WARRANT

Warning of the time and date for a general election in towns or wards and town meeting in towns is the responsibility of the selectmen. The warrant must state the hour when the polls will open to voting and the hour before which the polls may not close. The warrant must also list the offices to be elected, questions to be voted on by ballot, and the polling place location. RSA 658:1; RSA 669:2.

The warrant must be posted at least 14 days prior to any election at all polling places and at the office of the town or city clerk or at the town hall. See deadline dates in the New Hampshire Political Calendar published by the Secretary of State. The New Hampshire Political Calendar is also available on-line at: <http://sos.nh.gov/>. (Last Visited 8/4/2022).

PUBLIC NOTICE OF POLLING PLACE LOCATION AND HOURS

The town or city clerk shall enter and maintain in *ElectioNet* for each election the polling place location, street address and polling hours. Information for the public on polling place locations and polling hours published on the Secretary of State’s website <https://sos.nh.gov>, are based on the information clerks have entered into *ElectioNet*. (Last Visited 8/4/2022). It is very important to keep this information current and accurate.

RSA 657:19-c.

ADDITIONAL POLLING PLACES

Any town may vote at the town meeting to provide additional polling places and to establish the districts to be served by them. The city council in any city may establish

additional voting districts within the wards of the city. The city council is responsible for designating the districts within the wards and to select the various election officials to run the polling place unless the city charter provides otherwise. RSA 658:10; RSA 658:18.

The selectmen of the town are responsible for equipping the additional polling place in the same manner as the central polling place.

The moderator must appoint an assistant moderator and the clerk must appoint an assistant clerk for each additional polling place. Previous law required the assistants to be domiciled in the voting district covered by the additional polling place. Current law requires assistant moderators and clerks appointed in towns to be domiciled in the town, but not necessarily the voting district, of the additional polling place. It also requires that assistant moderators and clerks for cities be domiciled in the city ward where they will serve. RSA 658:14, RSA 658:18. RSA 658:11.

Two additional inspectors of election for each additional polling place are to be designated by each political party. The inspectors must be domiciled in the town and qualified, in the same manner as the officers of the central polling place. RSA 658:14; RSA 658:15.

Supervisors must prepare a list of the voters entitled to vote in the polling place using *ElectioNet*. No later than 14 days prior to the election, they must post a copy at the town or city clerk's office or at the town hall. They must also give the town clerk 2 copies of that checklist for use on election day, certified by the supervisors. RSA 658:12. After supervisors hold their final session, if any names have been added to the checklist for the additional polling place, provide the clerk with two certified copies of the updated checklist.

All officers of the additional polling place shall have the same duties as officers at the central polling place. RSA 658:14.

Inspect Ballots Upon Receipt

The town or city clerk must open all boxes of ballots received from the Secretary of State for a state election in the presence of at least one other voter as soon as possible after those boxes are received. The clerk must verify that all the ballots are the proper ones for that town or city, remove the number of ballots needed to test the electronic ballot counting device, which will be packaged in an envelope, and then reseal the boxes using the sealing label provided in the box. RSA 656:20; RSA 656:22; RSA 656:29

CERTIFICATION OF THE CHECKLIST

The checklist(s) used at the election must be certified at two different moments in time by two different sets of officials.

Before the election, the supervisors must certify that the corrected checklist, according to their best knowledge, contains (*fill in number*) of names of those persons “who are by actual domicile legal voters” in the town or ward. RSA 654:29. Two certified copies must be provided to the clerk. The clerk and moderator must use those certified copies as the checklist for the election.

After closing of the polls to voting, the moderator and the clerk must certify the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

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Dates Of Elections

Town elections are held annually on the second Tuesday in March, the second Tuesday in May, or the Tuesday after the first

Monday of November in odd- numbered years. RSA 669:1. Towns which adopt the provisions of RSA 40:13, known as Senate Bill 2 (“SB2”) towns, adopt separate dates for a deliberative meeting and an election day

(official ballot voting day) where warrant articles are voted on by official ballot. The dates chosen must be in accord with the restrictions set forth in that statute.

City elections are held in accordance with applicable provisions of the city charter.

The state primary is held on the second Tuesday in September. RSA 653:8.

The state general election is held on the first Tuesday after the first Monday in November. RSA 653:7.

Presidential preference primaries shall be held on the second Tuesday in March or on a date selected by the Secretary of State which is 7 days immediately preceding the date on which any other state shall hold a similar election, whichever is earlier, of each year in which a President of the United States is to be elected, or the year previous. The Secretary of State will call a special election if other than on the second Tuesday in March. RSA 653:9.

TIME POLLS ARE TO BE OPEN

At all state elections the polls in both towns and cities shall open not later than 11 o'clock in the morning and may not close earlier than 7 o'clock in the evening.

In cities, the city council shall determine the polling hours at least 30 days prior to the election. RSA 659:4.

At the 1994 general election, many communities voted yes on the following question: "*Shall we adopt polling hours in (town name) at all state elections beginning with the 1996 state primary election under which the polls shall open not later than 8 o'clock in the morning?*" If a community voted yes, then their polls must open at 8 a.m. for all state elections. This provision does not apply to local elections.

Any town wishing to change their polling hours may do so by voting on an article at town meeting under the provisions of RSA 659:4-a. If the article passes, notify the

Secretary of State. The Secretary will put the question regarding changing the hours on the next general election ballot in that town.

The governing body of a town may extend the hours of polling in the town, provided that no extension of the hours of polling may take effect sooner than 60 days after its adoption. RSA 659:4-a.

For city elections, hours are set by city charter, or by the city council.

Polling hours for a town meeting or election shall be set by the selectmen or by a vote of the town. RSA 669:25. Municipalities are encouraged to have uniform polling places and hours to make it easy for voters to know when and where they vote at any election, state or municipal.

Role Of The Moderator

The moderator is the chief election officer in charge of the polls. It is his or her responsibility to make certain that all the election officials are available on the day of the election and that each is familiar with his or her duties. See further discussion of the moderator's duties starting at page 143.

In cities the city clerk shall establish uniform practices and procedures that will apply citywide. The ward moderators and other election officials are required to follow the clerk's procedures. RSA 659:9-a.

SETTING UP THE POLLING AREA

The polling area must be set up to provide an orderly flow of voters. Place the guardrails so that no person outside the rail can approach closer than 6 feet to the voting booths, voting screens, or ballot counting device/ballot box. No person other than the election officials or registered voters in the process of voting may be within the rails except by the authority of the election officials. Ballots may not be removed from within the rail until sealed in storage boxes after the counting is completed. RSA 659:15; RSA 659:38.

It is recommended that a table or station be set up near the entrance of the polling area to enable voters without a photo ID to obtain and complete a Challenged Voter Affidavit.

The law permits the moderator, deputy moderator, assistant moderator, town clerk, selectman, supervisors of the checklist, registrar, city clerk, deputy city clerk, ward clerk, notaries, and justices of the peace to witness the signing of these affidavits. Accordingly, staff these tables with selectmen or assistant election officials. RSA 652:14.

READY FOR OPENING THE POLLS

Prior to the opening of the polls, the moderator must ensure that the polls are properly equipped and staffed. Recommended checklists are on pages 146, 394, and the Attorney General's Checklist starting at page 400.

SETTING UP AN ADDITIONAL POLLING PLACE

For those towns which have elected to use an additional polling places, the law requires:

- 1) Two copies of a certified copy of the supervisor's checklist for the area served by that additional polling place must be given to the clerk before the election.
- 2) On the day of the election, the clerk must bring the copies of the checklist as prepared and certified by the supervisors and deposited with him or her to the additional polling site.
- 3) The clerk is also responsible for providing a sufficient number of ballots for the additional polling place. The preparation of this package is done in the presence of the moderator and selectmen, and it is then delivered to the assistant moderator at the additional polling place by 2 election officers designated by the moderator.

Voting procedures at the additional polling place are the same as at the central polling location. RSA 658:33; RSA 658:16.

Prior to printing the zero tape from an electronic ballot counting device, the moderator, in the presence of at least one witness, shall examine all compartments of the ballot collection box, including the primary ballot bin, the diverter (write in) ballot bin, and the side ballot bin (ballots to be hand counted) accessed via the door on the side of the device, to ensure that the ballot collection boxes do not contain any ballots.

In a hand count town, the moderator should open the ballot box and display the insides to those present to establish that there are no ballots in the ballot box.

PROCEDURE FOR ACCEPTING VOTERS

- 1) For high volume polling places/elections use a greeter to direct people (see page 268). When the prospective voter enters the polling place, a greeter should direct the voter to:
 - a) Unregistered voters: The supervisors of the checklist table to become registered;
 - b) Registered voters with photo ID: The ballot clerk tables, to check-in and pick up a ballot;
 - c) Registered voters without photo ID: The "No Photo ID" table to obtain and sign Challenged Voter Affidavits.
- 2) Any unregistered person who wishes to vote in any election shall proceed directly to the supervisors of the checklist to register to vote in the polling place. The applicant shall complete the Voter Registration Form. Provide the applicant with a Qualified Voter Affidavit and/or Domicile Affidavit if he or she does not possess or did not bring proof of

identity, age, citizenship, or domicile.

- 3) He or she must prove identity, age, citizenship and domicile as required by RSA 654:12. If the applicant previously submitted an absentee voter registration form by mail, but did not submit a copy of a current and valid photo identification or other proof of qualification, then he or she must present such proof the first time the applicant votes in person. HAVA Section 303 (b). If approved by the supervisors, the newly registered voter shall then proceed to the ballot clerk, and present a completed New Voter Authorization Form, to receive a ballot for that election.

a) A person registering to vote without photo ID is required to complete the identity option on the Qualified Voter Affidavit.

- Direct the applicant to the “No Photo ID” table. Have the applicant complete a Challenged Voter Affidavit (CVA) to fulfill the requirement for a CVA when, after completing the voter registration, the person presents to the check in table to obtain a ballot. Make a notation on this affidavit indicating that a photograph of the voter has been attached to the Qualified Voter Affidavit. A photograph of the applicant must be taken and affixed to the Qualified Voter affidavit.

- The “No Photo ID” staff should then direct the applicant to return to the supervisors of the checklist with the affidavit to complete the registration process and the Challenged Voter Affidavit to bring to the check in table after registration.

- Once successfully registered, provide the applicant with a New Voter

Authorization form, noting on the form that a photo has been taken, and direct the voter to proceed to check-in with the ballot clerks.

- 4) Direct a previously registered voter without a photo ID to the “No Photo ID” table.

- a) Provide the voter with a copy of the one page “Voter ID Law” “Explanatory Document.” This is the one page version of #5-2019, which is posted at the polling place. This document is available in PDF in *ElectioNet* > Help > Instructions.

- b) At the “No Photo ID” table ask the voter if he or she personally knows the moderator, clerk, or any supervisor. If any of these officials know the person, arrange for the official to verify the voter’s identity. Unless a challenge is made to the verification, the voter need not complete a Challenged Voter Affidavit. The moderator, supervisor, or clerk making the verification should accompany the voter to the ballot clerk table and inform the ballot clerk that the official verified the voter’s identity. The ballot clerk checks the voter in as if the voter presented a photo ID.

- c) Staff the “No Photo ID” table with person(s) authorized to witness the signing of a Challenged Voter Affidavit. A copy of the official checklist must be at the table. Ask each voter who approaches the table their name to confirm they are a registered voter.

- 5) If the voter’s identity is not verified, he or she must complete the Challenged Voter Affidavit. Once the voter signs the affidavit and the signature is witnessed, a photo must

- be taken of the voter. If the voter has a religious objection to being photographed, the voter must complete a Religious Objection Affidavit. Do not take a photo of a voter who completes the Affidavit of Religious Objection. Attach this affidavit to the Challenged Voter Affidavit.
- 6) Direct the voter to take the completed Challenged Voter Affidavit to the ballot clerks. The ballot clerks accept the completed Challenged Voter Affidavit in place of viewing photo ID. The ballot clerk checks the voter off on the checklist, making a checkmark in the “CVA” box, and issues a ballot.
 - 7) Direct a previously registered voter with a photo ID, a voter who has had his or her identity verified by a moderator, supervisor, or clerk, or with a signed Challenged Voter Affidavit, to approach the check-in table. The voter must state his or her name and address to a ballot clerk. The ballot clerk then repeats the name and verifies that it appears on the checklist. If the name appears on the checklist, the ballot clerk must position a ruler under the voter’s name and address, place a check next to it, and repeat the name a second time.
 - 8) The ballot clerk shall then state the address for the voter printed on the checklist and ask the voter if the address is correct.
 - 9) If the address is NOT correct, and the Voter’s current address is within the same town or ward, the ballot clerk shall print the address in red on the paper checklist to reflect the correction.
 - 10) If the address is NOT correct, and the Voter’s current address is NOT within the same town or ward, the ballot clerk must inform the Voter that he or she is not at the correct polling place and that he or she can only vote where he or she are domiciled. The Voter should be directed to the moderator or clerk if directions to the correct polling place are needed. Encourage the Voter to use election day registration and vote at his or her correct polling place.
 - 11) The ballot clerk shall request the Voter to present a valid photo ID in the form of:
 - a. A driver’s license issued by any state or the federal government;
 - b. A non-driver ID issued by any state;
 - c. An ID card issued by NH DMV for voting purposes only;
 - d. A United States Armed Services ID card;
 - e. A United States Passport or Passcard;
 - f. A NH Student ID card: See Ballot Clerk Procedure at pages 409 & 412. Acceptable student photo IDs must be issued by schools identified in the Department of Education’s lists, which are available on the Secretary of State’s website:
 - <https://sos.nh.gov/elections/information/election-laws/voter-identification-law/> (Last Visited 8/4/2022).
 - g. The student ID card has either an expiration date or an issuance date that has NOT exceeded 5 years;
 - h. A photo ID not mentioned above, but determined to be legitimate by the moderator, supervisors of the checklist or clerk of a town, ward or

- city;
- i. Verification of the person’s identity by the moderator, a supervisor of the checklist or the clerk of a town, ward or city. (Not a ballot clerk/Inspector of Elections).
 - 12) A valid photo identification shall show the name and photo of the individual. The name shall substantially conform to the name of the individual on their voter registration record. The spelling of the name need not be a perfect match. For example, some photo IDs do not have the last letters of a very long name. In other cases the photo ID and Checklist name will not match perfectly as only one will show an apostrophe “ ’ ” in the name.

The photo identification shall also have an expiration date that has not been exceeded beyond 5 years. Exception: a voter 65 years or older may use an acceptable ID without regard to the expiration date.

- 13) In a primary, the voter must state his or her party affiliation (membership).

Voters who are unaffiliated with any party may declare their party affiliation at a primary. Those who do so may vote the ballot of his or her new party at that election.

A voter who is already affiliated with a party on the day of the primary may change his affiliation; in this event, he or she may not vote in that primary. RSA 659:14; RSA 654:34.

- 14) If the photo identification is an out-of-state driver’s license or non-driver’s identification card, the ballot clerk using red ink shall record the state of issuance on the checklist beside the Challenged Voter

Affidavit (CVA) box with a two-letter abbreviation (i.e. VT, MA, ME, NY).

- 15) If the Voter has executed a “Challenged Voter Affidavit” (CVA) with a photo attached, **the new voter authorization form indicates a photo was taken during voter registration,** or executed the CVA and an Affidavit of Religious Exemption, the ballot clerk shall put a check mark in the “CVA” box on the checklist and take the affidavit form(s) from the voter and place them in a folder or container marked for this purpose.
- 16) The Voter, if still qualified to vote in the town or ward and having (a) presented a valid photo ID, (b) had their identity verified by a moderator, clerk or supervisor of the checklist, or (c) having presented a “Challenged Voter Affidavit,” shall then be allowed to enter the space enclosed by the guardrail. Unless the voter presents (a), (b) or (c) above, do not issue the voter a ballot. A challenge of a voter shall be handled as provided in RSA 659:27 through RSA 659:32.

After a Voter is allowed into the area within the guardrail to vote:

The ballot clerk gives the voter the appropriate ballot(s). The ballot clerk shall use a ruler or straight edge to mark the checklist with a single thin line through the last name to indicate that the Voter has obtained his or her ballot. The line must not be so thick that you cannot read the voter’s last name.

Absentee voters shall be marked in red ink with the letters “A.V.” to the left of the check box. The absentee voter’s checklist entry must have the checkmark, the single thin line through the last name, and the letters “A.V.”

After the moderator and clerk no longer require access to the checklist for election reporting purposes, the supervisors of the checklist must scan the bar codes of those voters marked on the checklist as having checked in and picked up a ballot. Supervisors will also scan voters to indicate that they presented Challenged Voter Affidavits. Finally, for voters who use an out-of-state driver's license or non-driver ID for a photo ID, the supervisors will scan the voter ID number and the state that issued the license/ID into *ElectioNet*.

Using both a check mark and a single thin line through the voter's last name confirms that the voter both checked-in and that the ballot clerk issued that person a ballot. The accuracy of the checkmarks made beside the names of voters who check in to vote is critically important. The mark made by using a ruler or straight edge to indicate the voter received a ballot will prevent the person whose name is marked from voting again later that day. Therefore, it is very important that the mark be accurate. Do not erroneously place the mark beside the wrong name.

Supervisors and the Attorney General's office will use the mark as evidence that the person voted at more than one polling place or in more than one state.

Make clear corrections to errors. The election official making a correction must write his or her initials beside the correction.

If the voter's name does not appear on the checklist, it may be because the individual was never registered, the name was inadvertently removed from the checklist, or he or she may be at the wrong polling location. If the name does not appear on the checklist, the voter may not be given a ballot unless the supervisors determine that the person had been:

- Unjustly dropped from the checklist;
or
- Omitted from the checklist by

reason of a clerical or technical error.

If qualified, the person may register on election day, and then vote.

This means that even if a person's name is removed from the checklist during a ten year verification, that person must be given an opportunity on election day to prove that he or she is qualified as a voter. The supervisors must certify to the moderator that the voter is now registered, added to the checklist, and must be allowed to vote. RSA 659:12.

To prevent voters from marking ballots in public or trying to leave the area within the guardrail with a ballot, moderators should require the ballot clerks to hand out ballots only when a voting booth/screen is available. RSA 659:13; RSA 659:14.

One4all Accessible Voting System

For voters using the accessible, one4all, voting system (AVS), the ballot clerk must give the voter the appropriate pre-printed ballot used by other voters.

Direct the voter to the accessible voting booth containing the one4all accessible ballot marking system. RSA 659:15; RSA 659:25.

Refer to Ballot Clerk Procedure on pages 409 and 412 for more information on the voter check-in process.

VOTER REQUESTING ASSISTANCE MARKING BALLOT

A voter requiring assistance with marking his or her ballot must first declare to the moderator under oath that he or she cannot mark the ballot without assistance. The moderator must make the voter aware of the option to vote privately and independently using the one4all accessible ballot marking system. If the voter nonetheless prefers assistance, the moderator arranges the assistance. The voter may choose the assistance of an Inspector of Election or a person of the voters choosing. However, the voter may not choose the voter's employer or union official. RSA 659:20; 52 U.S.C

§10508. Both the person requesting assistance and the person providing assistance must complete the oath on page 316.

SERVICE ANIMALS

The Governor’s Commission on Disability advises that under the Americans with Disabilities Act (“ADA”), organizations that serve the public must allow people with disabilities to bring their service animals into all areas of the facility where the public is normally allowed. When it is not obvious what service a dog provides, only two questions may be asked:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

For further information visit:

<https://www.nh.gov/disability/mediaroom/documents/serdogbromarchtwoone.pdf>

(Last Visited 8/4/2022) or contact the Governor’s Commission on Disability at (603) 271-2773.

Spoiled Ballots

A voter who makes a mistake when marking his or her ballot may spoil his ballot by taking it to the moderator. Any voter who spoils a ballot(s) may receive a replacement, not exceeding 3 in all, upon returning the spoiled ballot(s) to the moderator.

The moderator must write the word "canceled" on the spoiled ballot and sign it. It is important during the counting process and at any recount to be able to clearly identify marked ballots that were spoiled and not cast, and therefore must not be counted. The moderator must hold spoiled ballots aside. Seal spoiled ballots, ideally in a separate envelope marked “spoiled ballots,” with the other unused ballots at the end of counting. RSA 659:22.

In ballot counting device polling places, the AccuVote device will be programmed to

reject a ballot that has one or more races overvoted (voter marked more ovals that the instructions permit). Instruct the voter to insert the ballot in the side opening on the ballot counting device where ballots to be hand counted are deposited.

DEPOSITING COMPLETED BALLOT

If ballot counting devices are in use, the ballot should be placed in a privacy folder so that the votes cannot be seen.

Upon completing the marking of a ballot that will be hand counted, the voter should fold the ballot so that the votes cannot be seen. In a hand count town, the voter must then approach the checkout table and state his or her name (name and party, if a primary) to the town or ward clerk. The clerk places a mark beside the voter's name on the checkout checklist. RSA 659:23.

In a hand count polling place, the voter then must hand his ballot to the moderator who must place the ballot in the ballot box himself or herself. The purpose of this statute is to provide another check that the voter is depositing only one ballot in the box. Reluctant voters should be counseled that the law clearly dictates this procedure. RSA 659:23.

In towns that use ballot counting devices, the voter may insert his or her ballot in the ballot counting device. The moderator must monitor the voter to ensure only the appropriate number of ballots are inserted. The ballot counting device is designed to not allow two or more ballots to be inserted, one on top of the other. A checkout checklist is not required in towns that use ballot counting devices. RSA 659:23, II. The voter must then leave the voting area.

Rejected – Wrong Ballot For Polling Place

In rare circumstances a voter will mark and attempt to cast a ballot that is printed for a different polling place. This can occur if ballots received by a city for one ward are

inadvertently used at a different ward or if an absentee voter is sent a ballot for the wrong ward. This can occur if the clerk does not verify that all boxes of ballots received prior to the election contain the correct ballots for that town/city ward. It can also occur if two voters from different towns/wards are together when marking their absentee ballots and mix up the ballots, sending them to the wrong towns.

Absentee voters with a disability may have the assistance of another person when marking their ballot. Otherwise, absentee voters ideally exercise their right to a secret ballot and mark their ballot in private. Nonetheless, rare instances of a ballot printed for a different polling place being cast at the voter's polling place have been reported.

If a ballot for a different town or ward is inserted into the ballot counting device, it will be rejected as the timing marks printed on the ballot will not match the ballot layout for the town/ward.

If the ballot was mistakenly issued to a voter entitled to vote in this polling place and the voter is still present, the ballot must be spoiled and a correct ballot issued to the voter to mark and cast.

If the voter who cast the ballot is unknown or not present (absentee voter), the ballot must be set aside for hand counting the votes on the ballot that are common to both polling places. The moderator should insert the wrong ballot in an envelope or folder for special attention when hand counted. Similarly, in a hand count polling place, if a wrong ballot is discovered in the hand count process, the ballot nonetheless is counted for the races/questions in which the voter was entitled to vote.

For example all ballots in the state will have the race for Governor. In two out of three election cycles all ballots in the state will have the race for United States Senator. Examine the other races on the ballot, in

many cases the ballot marked by the voter and the ballot that should have been issued to and marked by the voter will have the same races with the same candidates. Count the votes marked on the ballot where the races and candidates on the ballots match.

For questions, except for local questions that are specific to one town or city, questions are the same statewide. Count the vote marked on the ballot for all questions that appear on the ballot the voter should have received and marked.

Do not count the vote(s) marked on the ballot if the vote(s) is for a candidate/race or question not listed on the ballot the voter should have received. For those races or questions the marked (wrong) ballot must be counted as an undervote.

The process used to set aside the wrong ballot for the polling place and hand count it must protect the voter's right to a secret ballot.

CHANGE BACK TO UNDECLARED

At a primary, undeclared voters may, after declaring a party and voting, complete the party affiliation change card or sign the list of undeclared voters provided by the supervisors at the polls to return to undeclared status on election day. *ElectioNet* produces a signature list that contains a bar code for each voter. RSA 654:34, II(b). The retention requirement for this list and the individual cards is 7 years. RSA 33-A:3- a.

No voter whose name has been checked off on the checklist may be allowed to re- enter the polling area, except to assist a voter as described above. RSA 659:26.

Electronic Poll Books

Cities and towns may use electronic poll books for voter registration and check in at a local election only if the electronic poll book has been recommended for approval by an evaluator approved by the Secretary of State

and the system has been approved by the Secretary of State. The use of electronic poll books must follow the requirements issued by the Secretary of State. See further information at: <https://sos.nh.gov/electronic-poll-books/> (Last Visited 8/4/2022) RSA 652:27.

Some cities and towns have received approval for the limited use of electronic poll books in parallel with the statutory paper checklist process. No town or city may use a parallel system without the approval of the Secretary of State.

Under a parallel processing system, election officials must simultaneously fulfill all the requirements of law, as if no electronic poll book is in use. Officials typically do this by having additional appointed assistant election officials who use the check-in receipt issued by the electronic poll book to mark a paper checklist, as if the voter had checked in at the paper checklist. Ballot clerks staffing the electronic poll book issue the voter a ballot and the voter marks and casts that ballot while the second team of election officials receive the receipt and mark the paper checklist. SB 364 (2022) amended RSA 652:27, to allow up to 30 minutes lag between the e-poll book recording a voter check-in and the marking of the paper checklist. The marked paper checklist serves as a backup in the event the electronic poll book system fails and as a permanent paper record of who voted.

Election officials report that this parallel use significantly speeds up voter check-in for previously registered voters and is helpful for determining the number of voters who received a ballot at the end of the night.

Challenger Vs Observer

A “Challenger” is a person holding a letter of appointment, for state elections, from the state chair of a political party. A challenger with evidence a voter is not qualified has authority to challenge that voter.

A “Challenger” is not an “Observer.”. While a “Challenger” may also do what an “Observer” does, the “Challenger” has a statutory right to be positioned where he or she can hear voters check in. “Observers” and other members of the general public have a right to watch the conduct of the election from outside the rail, they do not have other specific statutory rights. Furthermore, while any voter registered in a town or ward has the right to “challenge” another voter in that town or ward, he or she is not recognized in the statutes as a “Challenger.” RSA 666:4; RSA 666:5

“Challengers” rarely actually challenge voters, more often they are tracking who votes for get-out-the-vote efforts or as trained monitors of the conduct of the election for the political parties.

Challenge Of A Voter

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials, challengers appointed in writing by the political party committees, or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5.

Usually challenges occur at the time the voter is at the check-in table before receiving a ballot. No voter or appointed challenger shall challenge a person’s qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, occur at any point up until the ballot is deposited in the ballot box. Position challengers in the polling place so that they can see and hear each voter as he offers to vote, but challengers cannot be within the guardrail. RSA 666:4; RSA 666:5.

A challenge must be for a specific reason. The challenger must complete an “Asserting a Challenge” form and sign it under oath. See “Asserting a Challenge” form at page 324.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the

checklist must rule whether or not the challenged voter either is qualified or is not qualified. The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. RSA 659:27-a. If the challenge is found to be not well grounded, that is the available evidence makes it more likely than not that the voter is qualified to vote, the voter shall be allowed to vote without completing the Challenged Voter Affidavit. RSA 659:27.

File Challenged Voter affidavits that were completed in response to a successful challenge separately from Challenged Voter Affidavits that were completed by voters who did not present a valid photo identification during the check-in process.

For more detail on challenges, see discussion starting at page 279.

Challengers Observing Ballot Counting

A challenger is a person appointed by the chairperson of a state political party, who can show the moderator a letter of appointment. Chosen by the political parties, these may be lawyers or volunteers who typically are trained in election procedures.

The law allows the Attorney General to appoint challengers. The Attorney General sends representatives of the office to conduct polling place inspections and to support local election officials, but typically does not appoint challengers.

A new law requires that during the counting of ballots and aggregation of counting results a challenger making a request, must be positioned outside the rail, but where the challenger can see and hear the hand-counting of ballots. A challenger's position must also allow a "line of sight" to the electronic ballot counting device.

"Notwithstanding any other provision of law to the

contrary, a challenger appointed pursuant to RSA 666:5 shall be assigned by the moderator or other election official presiding at the polling place to such position or positions within the polling place as will enable such challenger to see and hear the hand-counting of ballots for the tabulation of votes, and to maintain a line of sight on any electronic ballot counting device. Nothing in this section shall deprive any other person of the right to observe the hand-counting of ballots for the tabulation of votes as provided by law." RSA 666:5-a. HB1174 (2022).

This new law does not alter the requirement in RSA 659:63, that "No ballot shall be placed within 4 feet of the guardrail during the counting of votes." Therefore, the right to see and hear the hand counting of ballots does not mean that the observer has the opportunity to see how each ballot is marked as it is counted. The opportunity to see how each ballot is marked and how the tally sheet is being marked is provided at a recount, but it is not practical at an election night count. It involves the observer being closer than 4 feet or the use of technology to allow viewing of the ballot and tally sheet.

Observers should be provided with instructions on how to alert the moderator if the observer believes that ballots are not being accurately counted or otherwise has concerns with counting. There is no authority nor mechanism for an observer to protest how a particular ballot is being counted. Unless the moderator concludes the counting was not being done properly and directs further counting to correct process errors, the observer's only option is to seek to have a candidate request a recount.

To satisfy the requirements of this law, moderators need to ensure the layout of the area within the guardrail where ballot counting occurs is sufficiently close, but no closer than 4 feet from the rail, so that observers can see and hear the hand counting. At the same time, the ballot counting device must be in the "line of sight" from the designated spot outside the rail for the observer(s). We understand "line of

sight” in this context to mean an unobstructed view. For example the hand counting table and staff cannot block the observer’s ability to see the ballot counting device. Line of sight does not require any specific proximity. The observer should be able to see enough of the ballot counting device to see the printing of the results tapes and allow observing the emptying of the different bins under the device where ballots are stored. If the usual setup does not satisfy this new requirement, the moderator should consider moving the hand count table(s), the ballot counting device, or the rail. Either or any combination can be done to achieve a compliant setup. Keep in mind the new provision in the disqualification statute allows election officials who are disqualified from handling or counting marked ballots to do other work within the rail, provided they are outside the area designated for ballot counting, results aggregation, and reconciliation.

MONITOR FOR ELECTIONEERING

Electioneering means visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted. RSA 652:16-h.

The moderator should assign an election officer to check the voting booths to remove campaign materials. This officer should also make certain that the voting booth has a sharp pencil or pen and that the voter instructions remain posted.

“Electioneering shall be prohibited within the polling place building, provided that nothing in this section shall apply to the posting of sample ballots by election officials, pursuant to RSA 658:26, which have not been marked as voting for any candidate or measure.” RSA 659:43: Important, before enforcing the electioneering law, review: Electioneering starting at page 283.

The prohibition on electioneering means that no person who is a candidate for office or representing or working for a candidate shall,

within the building where the election is being held, distribute or post any cards or other printed or written material. The moderator has the authority to deter electioneering:

- i. Within the room where the voting occurs;
- ii. Along the path from that room to the entrance to the building; and
- iii. Within any corridor(s) established by the moderator outside the building, at least ten feet wide, leading from the entrance door as far into the street or parking area as the moderator determines is necessary.

See further discussion of electioneering starting at page 283.

No election official shall electioneer (act to influence voters) while performing his or her official duty. It is a misdemeanor to violate this prohibition. RSA 659:44.

While the law does not strictly prohibit election officials who are not performing their duties from going outside and electioneering in permitted areas during breaks or while off duty, this practice is strongly discouraged. At the least the election official must remove his or her election official name tag and any other indication that he or she is an election official. Election officials who want to electioneer are strongly encouraged to temporarily step down for the entire election and allow a temporary replacement to perform their election duties.

Processing And Casting The Absentee Ballots

Clerks and moderators report that it is helpful to arrange the returned absentee ballot envelopes, in alphabetical order by last name. It will help spot two voters, often father and son, with identical or similar names, making it easier to ensure the correct voter is marked in *ElectioNet* and on the checklist. Where two voters have identical

names, use the voter identification number printed on the absentee ballot label, printed from *ElectioNet*, to help identify the correct voter. Keeping the envelopes in alphabetical order and processing in batches will allow the election officer checking the checklist and the ballot clerk marking the voter as voting absentee to move easily in alphabetical order on the checklist.

Some election officials report it is beneficial to highlight the names of voters on the checklist who have returned an absentee ballot. Use a highlighter; do not pre-mark the voter as voting. Typically done in the days just before the election, this makes it easier to find and mark the voter on election day. It also improves accuracy of marking. Finding a name that is not highlighted will prompt the ballot clerk to double check that he or she has the correct name. Finishing a batch that covers a section of the alphabet and seeing a highlighted name not yet marked as voting will prompt a double check to confirm this is a rejected absentee ballot or to find a checklist marking error.

Process absentee ballots before any counting of election day ballots takes place. The moderator must announce in a loud voice so that everyone in the hall can hear that he or she is about to begin processing the absentee ballots. Generally, processing absentee ballots begins at 1:00 p.m. unless 10 or more voters present at the polls submit a written objection to the moderator. If they do, then the processing of the absentee ballots shall be done as soon as the polls close, but before any ballots are counted.

Processing of absentee ballots may begin at a different time that is no earlier than 2 hours after the opening of the polls. The moderator, or designee, shall post the time at which the processing of absentee ballots shall begin at the polling place and one other public location at least 24 hours before the polls open. In addition, when the polls open, the moderator shall announce the time at which the processing of absentee ballots shall

begin.

Process any absentee ballots received in the mail, after the start time for processing absentee ballots and prior to 5 PM on the day of the election, as soon after receipt as possible. No ballots may ever be hand counted before the polls close: device counted ballots may be inserted into the ballot counting device. RSA 659:49; RSA 659:49-b; RSA 659:50.

First, the moderator opens the outer envelope, being careful not to mar or tear the affidavit on the outer envelope. Moderators are prohibited from conducting the signature comparison set forth in RSA 659:50, III. The United States District Court for the District of New Hampshire held that RSA 659:50, III is unconstitutional. See: Notice Regarding the Processing of Absentee Ballots on Election Day. *ElectioNet* >Help >Instructions.

If a voter who is blind or has a disability receives assistance, the person who provides assistance is required to write his or her name and sign a statement on the application or affidavit envelope acknowledging that assistance. RSA 657:4, I, II(b).

If the voter received assistance, he or she should sign the affidavit envelope if able. If the voter's disability does not allow the voter to sign the affidavit envelope, the requirement that the application and affidavit envelope have the voter's signature does not apply. If there is no voter signature, but the name of a person assisting the voter is on the application or affidavit envelope, treat it as satisfying the signature requirement. Count the absentee ballot if the name of the voter is on the checklist and the affidavit appears to be properly executed, as detailed below.

If:

1. The name of the voter is on the checklist. Treat the name of the voter as on the checklist, if he or she has provided absentee registration

documents to become registered and the supervisors of the checklist approve the application and add the voter to the checklist;

2. The affidavit appears to be properly executed;
 - a. The signature appears to be that of a duly qualified voter who has not voted at the election;
 - b. Treat the affidavit as duly signed if the voter received assistance because the voter is blind or has a disability and the name of the person assisting is on the affidavit; and
 - c. Accept the signature if it is legible and is likely the voter's name or if it is illegible you must assume it is the voter's signature. Reject as not signed by the voter only if the signature is clearly legible as the name of a person other than the voter.

The moderator shall publicly announce the name of the absentee voter. RSA 659:50.

An exception to public announcement exists for confidential voters, voters who have established that they are under a protective order due to being a victim of domestic violence. The clerk and moderator should process absentee ballots from non-public, confidential, voters without publicly disclosing the voter's name.

If the moderator finds that any of these conditions have not been met, do not open the envelope containing the ballot. Reject the absentee ballot.

If an absentee ballot is rejected the moderator must write the word "Rejected" and the reason for the rejection (such as "rejected as not a voter," "voted in person" or "affidavit improperly executed") across the envelope and on the absentee ballot list provided by the clerk. A list of the permitted

absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415. If an absentee ballot is rejected because the voter did not submit adequate materials to become registered to vote, or the moderator questions the absentee voter's age, domicile or citizenship, the moderator must complete and sign an "Asserting a Challenge" form (page 324). The supervisors would then decide if the person is qualified to vote. If the moderator determines the challenge is well grounded or the supervisors determine the voter is not qualified, do not cast the ballot, but preserve it in the unopened envelope. RSA 659:27-a; RSA 659:50; RSA 659:51.

The moderator shall enter the word "challenged" and the reason for the challenge on the clerk's official absentee ballot list. The clerk shall enter the reason in *ElectioNet*. RSA 659:51. **Aggregate data, including the number and reasons for rejections by polling place, is reported to the federal Election Assistance Commission using the data entered into *ElectioNet*. These aggregate numbers are public information, subject to disclosure under the Right-to-Know law. Using the Voter Lookup tool on the Secretary of State's web site, a voter may check to see whether his or her absentee ballot was rejected and why. The Voter Lookup web site also relies on the data the clerk enters into *ElectioNet*.**

The moderator shall publicly announce the name of the voter and just that the absentee voter's ballot has been successfully challenged/rejected. Do not announce the reason for the challenge/rejection.

If the moderator finds that the voter has satisfied all of the conditions for an absentee ballot to be counted, the moderator announces the name of the absentee voter. The ballot of the absentee voter is now subject to challenge from any other voter in the town or ward or a properly appointed challenger.

CHALLENGES TO ABSENTEE BALLOTS

A voter in the town or ward/Political Party Challenger who challenges an absentee ballot must fill out and sign the “Asserting a Challenge” form. Regardless of the merit of the challenge, the moderator must then mark on the envelope containing the ballot the word “Challenged,” the name and address of the person making the challenge and the basis for the challenge.

Each challenged ballot must be numbered in sequence, the first challenged being number 1 (Challenged Ballot #1, Challenged Ballot #2, etc.)

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds and must sign the “Asserting a Challenge” form. If the moderator decides the challenge is well grounded, do not cast the ballot. Preserve the unopened affidavit envelope in the same manner as spoiled ballots and other ballots used on election day.

The moderator shall record on the clerk’s list of absentee voters the word “challenged” and the reason for the challenge.

The clerk shall record this information in *ElectioNet*. The voter may look up the reason for rejection on Secretary of State’s Voter Lookup website. RSA 657:26; RSA 659:51, III.

Some “Get Out The Vote” efforts will monitor absentee ballot processing and seek to contact any rejected absentee voters to encourage them to report to the polls in person to vote. Such a voter may vote in person if the ground for rejection was other than being ineligible to vote, i.e. affidavit not signed, no ballot in the envelope, no affidavit envelope. If the rejection was because the voter was found ineligible to vote, the in person challenge process must be followed.

In accordance with that law, if the voter signs the Challenged Voter Affidavit, allow the voter to vote.

If there is no challenge, or if the moderator, where appropriate with assistance of the supervisors, determines that a challenge is not well grounded, the moderator shall proceed to open the envelope containing the ballot, being careful not to unfold the ballot such that any of its marks may be seen.

If the ballot was challenged but the moderator had rejected the challenge (i.e. accepted the ballot), then the moderator must mark the reverse side of the folded ballot with the same challenge number as he or she wrote on the envelope containing the ballot when the challenge was made.

The moderator takes the absentee ballot to the check in table and reports the voter’s name to the ballot clerk. The ballot clerk shall place the mark "A.V." against the name of the absentee voter on the checklist in red ink. The ballot clerk must also place a checkmark beside the name and draw a single thin line through the voter’s last name.

The moderator then casts the ballot with all the other ballots, by placing the ballot in the ballot box or putting it into the ballot counting device.

Save all the rejected (unopened) and any challenged absentee ballot envelopes, opened and unopened, and keep them with all the ballots cast at the election. Absentee voting materials, including these envelopes, are sealed in the boxes provided by the Secretary of State, labeled in blue ink “Absentee Voting Materials”. Ballots are sealed in the boxes provided by the Secretary of State labeled in red ink “Ballots.” Retain these materials and preserve them in accordance with the laws governing the retention, preservation and destruction of ballots. In the event of a recount, the opened (empty) absentee ballot envelopes must be sent to the Secretary of State along with the ballots. RSA 659:101; RSA 33-A:3-a.

The clerk must record the reasons for all absentee ballot rejections on the clerk's list of absentee ballots. A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415. This record enables entry into *ElectioNet* and transparent reporting to the voter via the Secretary of State's website. See Voter Information Lookup at: <http://sos.nh.gov/>. (Last Visited 8/4/2022) RSA 659:51; RSA 657:26; HAVA Section 703.

Once all the absentee ballots have been cast or rejected, the polls have closed to in person voting, and all in line have registered/voted, the ballot box can be opened/**the ballot counting device results tape printed, with copies for the Secretary of State, moderator, and clerk,** and the counting process begun for each office on the ballot, referendum questions and any constitutional amendments. RSA 659:51; RSA 659:52; RSA 659:53.

Closing The Polls To Voting

The moderator must punctually close the polls to further voting at the hour stated in the warrant or notice, unless the hours have otherwise been extended. Everyone waiting in line when the poll closing is announced must be allowed to register and vote. If there is a line of cars waiting to gain access to parking or are backed up on the road leading to the parking lot at the moment when the polls close to voting, these individuals also are entitled to vote.

Those in line at the time the announcement is made that the polls have closed, provided they are qualified voters, must be allowed to vote. Those that arrive at the polling place after the announcement is made that the polls have closed may not be allowed to vote. The door to the polling place must not be locked until the counting of ballots is complete, the results have been publicly announced, and the ballots sealed into boxes for storage.

In the event the hours of polling are extended

by a federal or state court order, the moderator shall follow the guidelines in RSA 659:26-a. See extended hours voting at page 171.

SET UP THE POLLS FOR COUNTING

Once the moderator has announced that the polls are closed and the last voters who were waiting in line to register or vote have had the opportunity to vote, the moderator should immediately proceed to set up the voting area for the counting process. RSA 659:60.

Permit no person, other than an election officer to be within 4 feet of the counting. It is important to remember that the counting process is public. The public has a right to watch, but not to be where they can touch any ballot. **The minimum mandatory distance of 4 feet means that observers are not entitled to see how each individual ballots is marked. The opportunity for observers to see how each individual ballot is marked is available only at a recount.** The tables should be drawn together to afford the election officers ample room to spread out the ballots for counting. RSA 659:63.

Disqualification of Election Officials

Two statutes govern disqualification of election officials in certain circumstances, RSA 659:58 and RSA 658:24. Both statutes are revised by SB 242.

“Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than a position as an election official, is to be disqualified from performing duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than the position of an election official, shall be disqualified from handling of marked ballots and counting of votes pursuant to RSA 659:58.” RSA 658:24.

“Any election official who is also a candidate for office, other than a position of an election official, shall

not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he is a candidate. Such official shall disqualify himself from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the election official who is disqualified until such official may properly return. The moderator may assign any election official disqualified pursuant to this section to other duties not related to the tabulation of votes.” RSA 659:58.

Together, these statutes provide that:

- All election officials and inspectors of election, on the ballot seeking only an election official office, may perform their election official duties.
- All election officials on the ballot seeking an office other than a position as an election official, are disqualified from handling marked ballots, counting votes, and may not be within the area designated for ballot counting within the guardrail during the counting of votes for an office for which he or she is a candidate.
- A person who is not a moderator, clerk, selectman, inspector of elections, or supervisor of the checklist, whose name appears on the ballot for an office other than as an election official, is disqualified from performing duties as an election official in that election. For example a candidate for State Representative cannot serve as a deputy moderator, assistant clerk, or ballot clerk.
- An Inspector of Election (Ballot Clerk) whose name is on the ballot for either an election official or other office is not disqualified from serving as a ballot clerk, but may not handle marked ballots or count ballots.

When an election officer is disqualified, the moderator appoints an assistant, who must take the oath of office, who would fulfill any duties regarding tabulation of votes.

The “tabulation of votes” is the counting of

votes, whether hand counting ballots or the printing of the ballot counting device results tape. It would also include the aggregation of results from the tapes and hand counting, as well as reconciliation.

Duties “not related to the tabulation of votes” would include clearing voting booths of signs, packing away voting screens, assisting with counting the number of voters marked on the checklist as having voted or inventorying unused ballots.

Any election official whose name is on the ballot for any office who does not voluntarily recuse himself or herself from performing their election duties, must exercise due care to avoid electioneering while in the performance of his or her duties. RSA 659:44 makes it a misdemeanor for an election officer to electioneer while in the performance of official duties. Election officials in this circumstance should have a prepared response to questions or comments that avoids saying anything that is designed to influence the vote of any voter or which would appear to a reasonable third party to be electioneering.

COUNTING THE BALLOTS

The moderator is responsible for supervising the counting of ballots. The town clerk, selectmen, and other election officials should participate in the counting process as directed by the moderator. RSA 659:60. Swear in everyone used to count ballots, who has not already taken an oath of office.

The selectmen of a town or the alderman of a city determine whether a ballot counting device will be used to count ballots. Once use of a ballot counting device has been authorized in accordance with RSA 656:40, “*electronic ballot counting devices shall be used in said town or city.*” RSA 656:40. In conformance with this requirement, the moderator for a polling place that uses a ballot counting device makes the decision on how ballots that require hand counting are to be counted. In towns that have not adopted the use of ballot

counting devices, the moderator makes the decision on how all ballots will be hand counted. Each moderator must devise a system for counting ballots which is accurate and which will expedite the process. RSA 659:60; RSA 659:64; RSA 40:4-g.

The New Hampshire Constitution assigns responsibility for counting ballots to the moderator:

*“The meetings for the choice of governor, council and senators, shall be warned by warrant from the selectmen, and **governed by a moderator**, who shall, in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town or city clerk, in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person; and the town or city clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the Secretary of State, within five days following the election, with a superscription expressing the purport thereof.”*

New Hampshire Constitution, Part 2, Article 32, (emphasis added).

Inherent in the duty to count and publicly report the results is a duty to ensure the count is accurate. RSA 659:60; RSA 659:64; RSA 659:77. RSA 658:32 requires that the moderator ascertain and certify on the “Moderator’s Certificate” the total number of ballots received. RSA 659:73 requires that the moderator ascertain and record the total number of ballots cast. Best practice requires counting the number of voters who are marked on the checklist as voting. On election night, it is not effective to scan the checklist into ElectioNet and use the ElectioNet totals. Best practice is hand counting the voters marked as voting on the checklist.

BALLOT COUNTING DEVICE LONG REPORT TAPE

Best practice at polling places that use ballot counting devices is to also calculate the ballots cast using the number reported on the “Election Results Report,” on the “Long Report Tape” labeled “Ballots Cast.” In a primary, the ballots cast by party are reported at the top and bottom of the “Long Tape Report,” as the “Quantity.” (EXAMPLE)

BALLOTS CAST SUMMARY

CARD	QUANTITY
10001 DEM	345
10003 REP	344
TOTAL	689

The counter visible on the outside of the device will report the total number of paper ballots counted. In a primary, this will be the total of DEM + REP ballots. That number is not helpful in a primary when you need to determine the number of ballots cast for each political party.

In a general election where a single ballot is used, the “Long Tape Report” Ballots Cast Summary, “Quantity” number should be the same as the counter number on the device.

TEST GENERAL ELECTION

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*****
BALLOTS CAST
CARD          QUANTITY
10003                98

```

100 ballots were inserted into the device in this test election. Two have a race with an overvote, so only 98 ballots were counted. The ballots with an overvote were returned to the voter to be inserted into the slot for hand count ballots. All races and questions on those ballots must be hand counted. The two ballots must be included in the count of hand counted ballots.

Both the “Quantity” number and the counter number are the total number of ballots the machine counted. Add to this number the quantity of ballots that are hand counted.

TO PRINT A “LONG REPORT TAPE”

When the polls have closed to voting, feed the “Ender Card” through the AccuVote device. The device will automatically print a “short” report. This is not the “Long Report Tape” that is desired. Let the automatically generated “short” report run all the way through. When the AccuVote device asks whether another copy is needed, shut off the AccuVote device. Turn the AccuVote device back on. The AccuVote device will then ask the following series of questions on the small digital screen. Answer the questions using the “yes” or “no” buttons on the front face of the device.

1. Reprint elections results report? Answer “no.”
2. Send results by telephone? Answer “no.”
3. Send results by direct mode? Answer “no.”
4. Print elections totals report? Answer “yes.”
5. Print long report? Answer “yes.”

This process must be followed in order to have the AccuVote device print the “Long Report Tape” that will separately list the Democratic and Republican ballots cast on the “Ballots Cast Summary.”

To print a duplicate “Long Report Tape” to send to the Secretary of State with the “Return of Votes,” when prompted to print another copy, press the “yes” key.

RSA 659:75 requires that a duplicate “Long Report Tape” be printed and submitted to the Secretary of State on election night with the Return of Votes form. RSA 659:75, II. HB1527 (2022).

An explanation of the data printed on the Long Report Tape is at page 354.

HAND COUNT BALLOTS IN DEVICE COUNT POLLING PLACES

Typically, hand count ballots include UOCAVA e-mailed ballots that were printed by the voter, any unofficial ballots created by photocopy and authenticated by the clerk, and any ballots rejected by the device due to dampness, folds, **overvotes**, etc.

The ballot counting device must be programmed to return to the voter any ballot the device reads as having one or more races/questions overvoted. The voter is to be instructed to place the ballot in the slot at the side of the based where all ballots to be hand counted are inserted. A ballot rejected as having an overvote is not counted at all by the device, all races and questions on the ballot must be fully hand counted. RSA 656:42, XI.

CHECK THE BALLOT BOX

Prior to reconciling, double check that the ballot box is empty, that there are no uncounted ballots. In a ballot counting device town ensure that the primary bin (fully counted ballots, the diverter ballot bin (ballots with write in votes), both located under the device cover and the side ballot bin accessed via the door on the side of the device base (bin for ballots to be hand counted) do not have any ballots.

RECONCILIATION

Before declaring the results, prudent practice compares votes, voters, and ballots cast, three different measures. Statutes requires that the moderator determine and document the counts necessary for reconciliation on reports, all of which are public documents.

- How many votes were cast in a selected contest? Total the votes for all candidates for the selected office, including write-ins, then add in all undervotes – reported as “undervotes” in the report on each race and question on the device

results tape, and overvotes and undervotes determined during the hand counting.

- How many people voted? The number of names marked on the checklist as voting.
- How many ballots were cast? Using the ballot inventory or using the device counter number plus the number hand counted, determine how many individual paper ballots were marked and cast.

Ideally, each measure is exactly equal. That is:

Total votes for an office, including votes for candidates printed on the ballot, write-in candidates, overvotes, undervotes/ blanks
=

The total number of voters marked on the checklist as voting
=

The total number of ballots cast at the election.

However, errors in marking the checklist during the day, counting the voters marked as voting, errors in the hand count, or errors when combining vote sub-totals from different teams/devices will result in differences between the three values. Moderators need to assess when the counting is as accurate as is possible, such that no further counting or re-calculation of the aggregating of counts is warranted. Consider the margin of victory of the closest race(s) or questions voted. Small discrepancies which do not leave the will of the voters in doubt may warrant less additional reconciliation effort than a discrepancy that leaves the will of the voters in doubt. Discrepancies which cannot be resolved should be publicly disclosed to allow those considering requesting a recount to consider the potential implications of the discrepancy.

HAND COUNTING BALLOTS NOT COUNTED BY THE BALLOT COUNTING DEVICE

Ballot counting devices count all properly marked (the oval is filled in) races except for write-in votes.

The AccuVote ballot counting device, as originally equipped, has a diverter located where the device moves a counted ballot to a storage bin under the device. The following describes the process to use when that diverter remains in place and operational.

When the diverter is operating, the device fully counts, except for the write-in, a ballot with a write-in for one race, with the write-in oval filled in, and filled in ovals by the names of the chosen candidates in other races. That ballot is diverted to the write-in/blanks bin under the device. These ballots must be examined to obtain the name of the person(s) who received a write-in vote.

Do not hand count the full ballot, just determine what candidate(s) got a write-in vote and add that one vote to the candidate's total votes. If the voter writes in the name of a candidate whose name is also printed on the ballot in that race, the ballot should be counted as one vote for that candidate, which is added to the total votes for the candidate, not reported separately as a write-in.

In contrast, a ballot where the voter circled the names of his or her chosen candidates and all ovals are blank, has been treated by the ballot counting device as a blank ballot. Hand count the votes on the entire ballot, adding the votes marked by the voter to each candidate's total. The device has included the ballot in its total of counted ballots. For the ballot inventory/ballots cast report, do not add that ballot to the total ballots that were hand counted because that ballot is already included in the number of device counted ballots.

Local officials have chosen to remove the diverter from some devices. If the diverter has been removed or is not functioning, each ballot in the bins below the device must be visually checked for:

- Write-in votes;
- Ballots where the ovals are all blank but the voter has marked his or her choices in another manner, such as circling the chosen candidate's name, underlining, or striking through all the candidates not chosen.

The moderator must carefully examine each ballot.

BALLOT COUNTING DEVICES USING A DIVERTER

If a voter chooses to write in a person's name as their choice for an office, the voter is instructed to fill in the oval beside the write-in line. If the voter completes this oval the device diverts that ballot from the primary storage bin under the device to a second bin.

Ballots where all ovals are blank, that have no ovals for any race or question filled in, are also diverted into this second bin. These ballots are treated by the device as completely blank, an abstention from voting on every race and question.

Carefully examine ballots in the second bin, sometimes called the "write-in vote" bin.

For a ballot in the write-in bin, where ovals have been filled in next to a candidates printed name, the device has counted those votes. The hand count must only record the name of the person who the voter wrote in for each office with a write-in vote.

The device's "total tape" number of ballots counted, "Quantity" already includes these ballots.

```
TEST GENERAL ELECTION
*****
BALLOTS CAST
CARD          QUANTITY
10003         98
```

Therefore, if you determine the total number of ballots used by adding the device "Long Report Tape" "Quantity" of ballots to the hand count total ballots (number of ballots not counted by the device), do not count these ballots as hand counted ballots for determining the total number of ballots cast.

For a ballot where no oval has been filled in anywhere on the ballot, the device has treated the ballot as a blank ballot. The ballot is included in the quantity of ballots counted on the device's "Long Report Tape" "Ballots Cast Summary." The moderator examines the ballot to determine whether the voter used some mark other than filling in the oval to mark his or her vote. If the intent of the voter can be determined, for example if the voter circled the name of his or her choice for each race or question, count each vote as marked.

For the purpose of determining the total number of ballots used, these ballots have already been included in the total ballot quantity reported by the device. Do not add them to the total ballots cast as hand counted ballots.

For the purpose of determining the total number of votes for a particular office or question, including undervotes and overvotes, for every vote you add to a candidate or question total, you must subtract "1" from the "undervotes" total. By determining the voter's intent, you are changing the ballot from being an undervote to being a vote for the marked candidate or marked choice on a question.

The ballots that the device rejects due to being read as having an overvote, dampness, folds, etc. along with UOCAVA e-mailed (home printed) ballots, federal office only, federal write-in, and any other ballot that is hand counted, must be added into the total ballots used if the total ballots cast is being calculated by using the “Long Report Tape” number.

For these fully hand counted ballots, votes must be added to the totals for each candidate or question taken from the device results tape. The total number of overvotes determined during the hand counting must be added. The undervotes determined during hand counting (where the voter abstained from voting for any candidate in a race or voted for more candidates than permitted) must be added to the total undervotes reported on the results tape.

The end of the ballot counting process, the reconciliation, compares the total ballots used, (which will include these fully hand counted ballots), the total votes for a particular office or question, and the total voters.

BALLOTS WITH ALL FILLED-IN OVALS COUNTED

Best practice is to have the ballots in the primary bin (fully counted bin) carefully segregated from those ballots where the name of the write-in must be obtained or that have all blank ovals, but do have other marks showing the voter’s intent and must be fully hand counted.

Have election officials make a quick visual check of each of these “fully counted” ballots for write-in votes where the voter failed to also mark the oval beside the write-in line. The device will treat these ballots as an undervote for that race, diverting the ballot into the primary bin containing the fully counted ballots. The team should also check these ballots for other potentially significant marks. Set aside ballots with write-in votes or stray marks for a careful examination by the

moderator.

Where a write-in vote is found, that vote must be added to the total for that write-in candidate. For each write-in found where the oval was not filled in also reduce the number of undervotes for that race by one.

Where other marks are found that make it more likely than not that the voter intended to vote in a manner different from the marks the voter made in the oval, adjust the vote totals to reflect the voter’s intent.

For example, in a “vote for not more than one” race there are two ovals filled in. However, the name of one candidate, whose oval is filled in, is crossed out and the voter wrote “no vote” associated with that candidate’s name. The device will read this as an overvote for that race and will reject the ballot. Instruct the voter to insert the ballot in the hand count slot at the side of the ballot counting device base. This ballot has not been counted for any race by the device. The hand count must count every vote marked in every race/question on this ballot. For the ballot inventory/ballots cast calculation, this ballot must be included in the number of ballots that are hand counted.

The results report from the ballot counting device must be used along with the hand count results to determine the outcome of the election. RSA 656:40. Moderators may hand count all ballots that have already been counted by a ballot counting device only if reliable and documented evidence exists that the device count is inaccurate and this evidence has been reported to the Attorney General and the Secretary of State. At state elections, the Attorney General and/or Secretary of State may send staff to the polls to obtain the evidence and provide guidance on finalizing the results.

Model Counting Instructions

There are several proper ways to hand count ballots. See model instructions for counting ballots starting at page 416 for examples of

how some towns hand count ballots.

COUNTING BALLOTS AT ADDITIONAL POLLING PLACES

Ballots may be counted at an additional polling place if the moderator for the town or ward has authorized such beforehand and in writing. In this case, the assistant moderator with the assistant clerk and other additional polling place election officers may tabulate the votes at the additional polling place. RSA 659:59.

After tabulating the votes at the additional polling place, the assistant moderator must place and seal the counted ballots back in the ballot box or into ballot storage boxes. This process must be certified by the clerk and witnessed by the inspectors of election (ballot clerks – once from each political party). Seal the duplicate checklists, cast ballots, spoiled ballots, and unused ballots in a separate box. (See seal on page 396.) Deliver the written report of the tabulation, signed by the assistant moderator and assistant clerk, with the sealed ballot box(es) to the moderator at the central polling place. RSA 659:59.

At the central polling place the ballot box(es) will be unsealed and the checklists removed to be used as needed to reconcile the aggregated results from the two polling places. After the aggregated results are finalized and announced, the ballots used at the election are sealed in the same manner as those used at the central polling place. Keep the checklists, tally sheets, and any other records from the additional polling place with their counterparts from the central polling place for use by supervisors and the clerk after the election.

If the moderator does not authorize counting ballots at the additional polling place, then upon the close of the polls to voting, the assistant moderator must close the ballot box and seal it in the presence of the election inspectors. He must then seal the duplicate checklists together with the spoiled and

unused ballots in a separate box. The assistant clerk certifies that the process is properly completed. Two designated election officers, one from each of the two major political parties, return these materials to the moderator at the central polling place. RSA 659:62.

The moderator at the central polling place then proceeds to count the ballots from the additional polling place.

Announce the final tabulation of all votes from a town or ward as a single total, regardless of where the counting takes place.

What Constitutes A Legal Vote

The overriding consideration of how to count a ballot is the voter's intention. Determining the intention of a voter ultimately requires a common sense judgment by the election officials. Remember: the whole thrust of our election laws and their application is to enfranchise as many qualified citizens as possible and to accurately count their votes whenever possible. RSA 659:64.

The New Hampshire Supreme Court addressed the counting of ballots NS directed that *“care must be taken that the matter is not decided on the basis of unwarranted technicalities. The goal must be the ascertainment of the legally expressed choice of the voters. The object of election laws is to secure the rights of duly qualified voters, and not to defeat them. . . . [D]etermine a voter’s intent by giving weight to all marks placed on the ballot, regardless of the method by which the voter chose to cast a vote.”* Appeal of McDonough (Ballot Law Comm'n), 149 N.H. 105, 112, (2003).

For town and city elections, the law provides: *“In any vote conducted pursuant to this chapter, every ballot shall be counted if the intent of the voter can be determined, regardless of whether the voter followed any instructions relative to marking the ballot provided before the vote.”* RSA 40:4-g.

GUIDELINES IN DETERMINING LEGAL VOTES

If there is a question concerning the vote on a ballot for a particular office, only the vote for that office shall be affected, and the rest of the ballot must be counted.

If a voter votes for more names than there are persons to be elected to that office (an overvote), his ballot shall be regarded defective for that one office and the vote(s) shall not be counted for that office. Treat the ballot as if the voter, for that office or question, did not vote for any candidate or for either choice of a question. It is required to have counting teams record the number of undervotes (voting for fewer choices than were available to the voter for that office or question) and overvotes for each contested office or question. HB 1163, Amends RSA 659:73, paragraph IV, to require moderators determine and to report on the Return of Votes: “For each election the number of overvoted ballots” and “For each contest or ballot question, the number of overvotes and undervotes.” These counts are also necessary to effectively reconcile ballot counts.

The completed Return of Votes is a public record subject to disclosure under the Right-to-Know law. Moderators and clerks should anticipate that they will receive Right-to-Know law requests for this document. Anyone interested will be able to reconcile the reported results for an office or question and compare it to the reported ballots cast and voters marked on the checklist as voting to determine if any discrepancy exists.

For each Contest: The AccuVote ballot counting device will now be programmed to reject any ballot the device reads as overvoted.

Ballots rejected by the device as overvoted may contain actual overvotes, where the voter has unambiguously marked votes for more than the permitted number of choices. Ballots rejected as overvotes may also be ballots where the marks show a clear intent

to vote for the permitted number of choices, but other marks on the ballot were read by the ballot counting device as a vote for additional choices. Examples include stray marks that pass through an oval or where the voter marked an oval but made additional marks that make it more likely than not the voter did not intend to vote for that choice. Hand counting these ballots will help ensure if a human counter is able to determine the voter’s intent, each vote is counted.

The “Long Results Tape” should report no ballots with an overvote as counted by the device. The “Long Results Tape” will report the number of under votes for each race, the number of choices available to the voter where the voter did not mark the choice.

For example, in a “vote for not more than 1” race left blank, that will be 1 under vote. In a “vote for not more than 2” race, if the voter marks just one candidate oval, that will be 1 under vote for that contest. If the voter leaves the race blank, does not mark any oval, that will be 2 under votes for that contest.

All ballots read by the device as overvoted and rejected must be fully hand counted. A hand count must be made of all races and questions, including, but not limited to any race(s) where the voter marked more choices than permitted by the instruction on the ballot. The hand count tally sheet must now include a place to track and keep count when the ballot is an overvoted ballot and a separate place to track and keep count when the ballot is undervoted. If the instruction for the race is “vote for no more than” a number greater than 1, the tally sheet must account for all possible permitted votes. In a “vote for not more than 2” race, if the voter marks a vote for one candidate, but does not mark a vote for a second candidate, the tally sheet must show one vote for the chosen candidate and one undervote. If the voter marks three choices, overvotes that race, the tally sheet must show 2 overvotes.

If the ballot instructions states, “Vote for not more than 3,” and the voter marks 4 candidates for that office, there are more than the permitted number of votes for the office, then the number of overvotes is 3, because the voter has given up 3 choices.

For each election, the moderator must also document the number of overvoted ballots. This calculation is intended to report a ballot as one overvoted ballot regardless of how many overvoted races or questions there are on that ballot. Because all ballots read as overvoted by the ballot counting device will be rejected and must be hand counted, no useful data will be available from the ballot counting device “Long Results Tape.”

Moderators must adopt a system for counting the number of overvoted ballots. Options include having the teams hand counting ballots, after counting the ballot, set all ballots with an overvote in a separate pile. When the hand count teams finishes counting a set of ballots and verifying that the outcomes balance (i.e. in a race all votes for candidates + write-in votes + undervotes + overvotes = the number of ballots in the set being counted), the team then counts and documents how many ballots are in the pile of overvoted ballots. An alternative is to add a space on the tally sheet each counting team uses for a set of ballots where a tick mark is made for each ballot that has any overvoted race or question. The tick marks can then be added to determine, for that set of ballots, how many ballots were overvoted. Any system which yields an accurate count of the number of ballots with one or more overvoted races or questions satisfies the law.

An individual may vote for one or more candidates by filling in the oval to the right of the candidate’s name(s) or by writing the name(s) on the write-in line and filling in the oval beside the name.

Write-ins: To vote for a candidate by write-in on a hand count ballot, the voter needs only to write the name of the person he wishes to

vote for on the appropriate line. A mark does not need to be placed in the oval opposite the write- in line.

However, when a voter is writing in his choice of a write-in candidate on the AccuVote paper ballot, in addition to writing in the name, voter must fill in the oval so that the scanner will know that the voter made a write-in vote. If the oval is not filled in, the ballot may be sent to the bin under the ballot counting device where the fully counted ballots are sent. Check ballots in the fully counted bin for write-ins where the voter failed to fill in the oval or other marks showing the voter’s intent on ballots where the oval is blank for that office.

WRITE-IN VOTE FOR CANDIDATE WHOSE NAME IS ALSO PRINTED ON THE BALLOT

In the case of a write-in vote for a candidate whose name also appears on the ballot as a nominee of a party for the same office or as a candidate at a general election, count the ballot as one vote for that candidate for that office. RSA 659:67. A ballot counted by the AccuVote ballot counting device must be carefully examined. For this explanation “Jane Doe” is a candidate for Governor whose name is printed on the ballot. Four possibilities exist:

1. The oval beside the printed “Jane Doe” is blank, and the voter writes “Jane Doe” on the write-in line. The oval on the write-in line is blank. Count one vote for “Jane Doe.” Reduce the number of blanks (undervotes) by one.
2. The oval beside the printed “Jane Doe” is marked and the name “Jane Doe” is written on the write-in line, but the write-in line oval is blank. The device counted one vote for “Jane Doe” based on the marked oval next to the printed name. Do not add any vote. No adjustment to the number of

undervotes is required.

3. The oval beside the printed “Jane Doe” is marked and the name “Jane Doe” is written on the write-in line and the write-in line oval is marked. The device should reject the ballot as containing an overvote (voted for two in a “vote for one race”). The device sees only one vote for a candidate printed on the ballot and a second vote for a write-in. All ballots rejected by the device as having one or more overvotes must be hand counted. A human counting this ballot should count it as one vote, albeit entered twice for the same candidate for the same office. The hand count adds one vote for “Jane Doe”.

When completing the vote total for “Jane Doe” and when filling in the return of votes, if the examination results in adding a vote for “Jane Doe,” add the vote to the total reported for “Jane Doe,” the candidate whose name is printed on the ballot. Do not report this vote for “Jane Doe” as a write-in. Votes for one individual for the same office must be reported in a single total votes. Do not report votes for the printed name and votes the same name as write-ins separately. RSA 659:64-a.

PRIMARY ELECTION – DIFFERENT PARTY

Votes cast for the same person for the same office on the ballot of different parties at any primary shall not be added together but shall be credited to the party on whose ballot the name appears and the vote is cast. RSA 659:69.

CROSS ENDORSED CANDIDATES ON A GENERAL ELECTION BALLOT

No candidate can receive more than one vote from a ballot in one race. At a general election a person seeking an office can appear on the ballot in both the Democratic and the Republican columns for the same office. This occurs when the person is a

candidate in the primary for his or her party’s nomination and wins. The person also wins the nomination as a write-in candidate in the other party’s primary. Even in a vote for more than one race, the voter may vote for that person only once.

If the ovals beside the candidate’s name as the Democratic candidate and the same person’s name as the Republican candidate, and/or a write-in candidate, the candidate can receive at most one vote. The ballot counting device is programmed to award only one vote. If such a ballot is hand counted, award only one vote.

COUNTING

Do not insert a ballot without an official endorsement in the ballot box/ballot counting device or count such ballot, except unofficial ballots prepared in the event of exhaustion of the supply of official ballots. RSA 659:65. These unofficial photocopied ballots must have the signature or initials of the town or city clerk on them.

If a ballot does not readily lend itself to a determination of the voter’s intention, count the ballot in accordance with a majority vote of the election officials present. If no particular count of that ballot can be decided by majority vote, that ballot shall be considered defective for that office. Count the ballot as if the voter made no vote for that office (undervote). RSA 659:64.

For town and city elections, a new law provides: *“In any vote conducted pursuant to this chapter, every ballot shall be counted if the intent of the voter can be determined, regardless of whether the voter followed any instructions relative to marking the ballot provided before the vote.”* RSA 40:4-g. The New Hampshire Supreme Court has established this standard, as the rule for counting all ballots, most recently in Appeal of McDonough (Ballot Law Comm’n), 149 N.H. 105, 112, (2003).

VALID VOTING MARKS

The instructions for voting on all ballots printed by the Secretary of State for state elections direct the voter to “completely fill in the oval.” RSA 659:17. Count any mark that makes it more likely than not that the voter intended to fill in the oval as a vote for that candidate or choice for a question, unless there are contradictory marks.

- A. If a cross "X" is marked on a ballot in an imperfect manner, count it if it is possible to determine the intention of the voter from the mark.
- B. The mark also is valid outside the oval or square if it is near enough to the oval/square or in line with the name such that it indicates the intent of the voter.
- C. A double cross, overlapping Xs, is valid if it is distinguishable from an attempt to obliterate a choice on the ballot.
- D. Cross marks or filling in ovals are a directive of the law. However, the Supreme Court directs that a vote be counted if the voter’s intent can be determined, even if the voter did not follow the marking instruction. The uniform use of a mark other than "X" or completely filling in an oval is a valid marking of the ballot. The shape of the mark may change somewhat or be somewhat irregular and still be considered uniform and therefore valid.
- E. When there is a different kind of mark (i.e. a ballot marked with checks and crosses intermingled) the marks may be valid.
- F. Erasures and obliterations: when two candidates have marks and one of the marks is erased or obliterated, the ballot counts for that office only if the erasure or obliteration is complete.
- G. When examining a questionable

mark, look at how the voter has marked other races or questions. The pattern of marking used in other areas of the ballot may reveal the intent of the voter.

COUNTING THE CHECKLIST

The moderator should direct assistants or ask the supervisors to count the number of voters who marked on the checklist as having voted. Use this number in the reconciliation process to help verify that the election night count is accurate. This number must be reported on the “Moderator’s Worksheet,” required by RSA 659:73.

Reporting The Vote – Votes, Voters, & Ballots Cast

VERIFYING THE RESULTS

Prior to announcing the voting results, recheck totals for any obvious tabulation error. Verify there are no missing or double counted tallies done by one counting team or hand count results added to device count results. Compare the vote totals for each office or question against the total number of persons checked off on the checklist as having voted. Also compare the vote totals to the total number of ballots used (ballot inventory and/or count of cast ballots). Refer to the Moderator’s Worksheet on page 423 and reconciliation form starting on page 429.

Look for obvious discrepancies such as a vote total combining votes for all candidates for an office (including undervotes/**blanks**, and overvotes, or) which is larger than the number of voters who voted counted from the checklist or the number of ballots used from the ballot inventory and/or a count of the cast ballots. If the vote totals exceed either number, the results are facially inaccurate and, if possible, that discrepancy must be resolved.

To avoid obvious mistakes, adopt verification practices using the Moderator’s Worksheet and the reconciliation form, starting at page 429.

Many moderators ask someone with an accounting or bookkeeping background, for example their Town Treasurer, to assist with the final verification. Bring in a fresh set of eyes to check if the numbers make sense before finalizing and announcing the results.

REPORTING THE RESULTS

After all state election ballots have been counted, the town or ward clerk must submit (a) the election results entered on the Secretary of State’s Return of Votes forms, (b) if a ballot counting device was used, a “Long Results Tape,” and (b) the one4all accessible voting system tablet, bundled together, by 8 AM on the morning after the state election. Laws of 2022, Chapter 78, HB 1527, amends RSA 659:75 to require that for all state elections, *“the town or ward clerk shall print and forward a paper copy of the long report tape to the secretary of state with the return of votes form and shall keep a paper copy of the long report tape with the paper return of votes form that is retained by the town or city clerk . . .”*

Print at least 4 copies of the long results tape.

1 – to be kept by the clerk as a public record;

1 – to be kept by the moderator, to use if questions arise regarding the results;

1 – to send to the Secretary of State with the Return of Votes; and

1- to post as part of the moderator’s public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk’s office.

The ward clerk must send copies to the city clerk. Within 48 hours after the polls close, the moderator shall provide the clerk with a Moderator’s Worksheet. RSA 659:73. The

city or town clerk must keep a copy of the Return of Votes, Moderators Worksheet, Names on Checklist, and should keep other tally sheets and reconciliation worksheets in case there are questions. Do NOT seal these documents up with the ballots used at the election.

If an official state election return is sealed along with the ballots, at the request of the Secretary of State, the clerk having custody of the sealed ballots shall unseal the ballots in the presence of a state election official and retrieve the election return.

The ballots must immediately be resealed and the election return must be delivered to the Secretary of State by the election official. RSA 659:73; RSA 659:75.

The moderator must report the result of the vote count to the public after the count has been completed. The moderator should post a copy of the results.

“The moderator shall, in the presence of the said selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all inhabitants of such towns and wards present, and qualified to vote . . . and shall . . . in the presence of the said selectmen, and of the town or city clerk, . . . sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person . . .”

New Hampshire Constitution, Part 2, Article 32.

SECURING THE BALLOTS

After counting the ballots, declaring and recording the results, the moderator, in the presence of the selectmen, shall put the cast, canceled and unused ballots into the ballot storage boxes received from the Secretary of State, and shall indicate the number of such ballots on the seal. The Secretary of State provides boxes labeled in red ink “Ballots” for storing all ballots. The printed ballots are shipped to the clerk in these boxes before the election which must be reused to store the ballots after the election. The Secretary also

ships additional empty boxes, some labeled in red ink “Ballots” and additional boxes labeled in blue ink “Absentee Voting Materials” to ensure adequate storage boxes are available. If a clerk/moderator believes they do not have sufficient boxes, notify the Secretary of State’s office. See example on page 396. RSA 659:95.

At a primary, the best practice is to store the cast ballots from one party separately from the cast ballots from the other party. Note on the seal which party’s ballots are in each box

SPOILED & UNUSED BALLOTS, ABSENTEE BALLOT ENVELOPES & APPLICATIONS

The moderator should save all spoiled and uncast ballots, and seal them into the boxes labeled “Ballots” in red ink. The rejected (unopened) absentee ballot envelopes, any challenged (opened or unopened) absentee ballot envelopes and all other Absentee Voting Materials must be sealed in the boxes labeled “Absentee Voting Materials” in blue ink. Do not seal the clerk’s list of absentee ballots, tally sheets, the moderator’s work sheet, or other work papers used to aggregate the election results in either set of boxes.

Retain and preserve these materials in accordance with the laws governing the retention, preservation and destruction of ballots. RSA 659:101; RSA 33-A:3-a. See the Retention Chart at page 440. In the event of a recount, send the opened (empty) absentee ballot envelopes to the Secretary of State along with the ballots. All boxes, both red and blue labels, must be turned over to the Secretary of State if ballots are pickup up for a recount. Any absentee ballot envelopes received by the clerk after the election must be entered into *ElectioNet*, as rejected, sealed in a container (which can be a state box or a large manila envelope, and turned over to the Secretary of State with the ballot boxes. If additional absentee ballot envelopes are received after the Secretary of State picks up ballots for a recount, the clerk must enter them into *ElectioNet* as rejected, secure them

in a container, and when it appears no more will be received, seal the container and place them into ballot storage. Destroy them after the retention period ends.

LABELS & SEALING

The resealing label, called the “Label for Resealing Ballots” must be signed by the moderator and selectmen or their designees.

Securely seal each container. First seal up all sides of the box with filament tape. Second, stick the official “Label for Resealing Ballots” on the box. Third, use the red security tape to make a tape seal around the entire box, and along the edge of the label. Then tape down the ends of the label with two short strips of the red tamper-evident tape.

This red security tape will change its appearance if it is pulled loose after being stuck to the box. This “tamper-evident” tape is intended to prove that the box of ballots has not been opened between being sealed on election night and being opened at a recount or a court hearing.

Do not put:

- **Marked checklists;**
- **Return of Votes;**
- **Moderator’s worksheet;**
- **Tally sheets;**
- **Ballot Counting Device Zero Tape;**
- **Ballot Counting Device short results tape;**
- **Ballot Counting Device long results tape;**
- **Challenged Voter Affidavits;**
- **Absentee Ballot Lists; or**
- **any other documents that may be needed later**

in the sealed boxes with the ballots or absentee voting materials.

The Secretary of State will provide containers for ballot storage only for state elections. Local officials should make certain that they have suitable containers available for preserving ballots after any local election. RSA 659:95; RSA 659:97.

The moderator and selectmen or their designees should deliver the ballots in their sealed container to the town or city clerk. The clerk shall subscribe upon the label the hour when he or she received the ballots and sign his or her name in the place provided. RSA 659:98.

Storage of Sealed Boxes of Ballots

RSA 659:98 has been amended to require that sealed boxes of ballots be stored in an area under the direction of the clerk.

“The clerk or the clerk’s designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall. Containers containing ballots and absentee balloting materials that have been sealed after an election according to instructions provided by the secretary of state shall be stored in a location under the direction of the clerk. A log shall be maintained by the clerk specifying the location and the containers at the location. Once stored, the containers shall be accessible only to individuals working under the direction of the town clerk, as required for recounts, or as necessary for the secretary of state to verify the container storage. When the containers are removed to allow for destruction of ballots in accordance with RSA 33-A:3-a, the destruction of the ballots and absentee balloting materials shall be the final entry in the log.” RSA 659:98.

Clerks must follow these requirements starting on election night for all ballots and materials sealed into boxes. Clerks will also need to secure and log the box used for unopened absentee ballot return envelopes that are received after the election. Make a log entry showing a box (or envelope) that is being used to securely hold returned absentee ballot envelopes. This box may be kept in a different location, for example a secure place in the clerk’s office, from where the other

sealed boxes of ballots are stored.

If your ballots are picked up for a recount, ensure all absentee ballot envelopes received after the election up to the time when the pick-up occurs are secured in a sealed box, documented in the log, and turned over to the Secretary of State’s staff making the pickup.

In that event clerks will need to start an additional container to securely store returned absentee ballot envelopes that arrive after the Secretary of State’s office makes the pick-up. When it is unlikely that any further absentee ballots will be returned, the secure container must be sealed with an election night seal, the entry made in the log updated, and the sealed box secured in accordance with this law.

This statute requires that the stored sealed boxes of ballots “shall be accessible only to individuals working under the direction of the town clerk . . .” Towns and cities currently using shared storage space, where the ballot boxes are comingled with materials stored by other town/city departments, are required to:

- Use a different space that is exclusively under the direction of the town clerk; or
- Modify a section of the storage space to make it secure and place that section of the space under the direction of the clerk.

Under the direction of the town clerk means that the clerk controls or has knowledge of who has access to the space used for ballot storage. The law does not prohibit storing other materials in the space used for storing ballots. Other materials from the clerk’s office stored there by or under the direction of the clerk are permitted. Storage of materials by other town departments would require that the storage be under the direction of the town clerk. Best practice is to have the clerk or clerk’s staff be directly

involved in providing admittance to the area and directly overseeing the placing or removing of materials from storage.

The Clerk must maintain a log “specifying the location and the containers at the location.” RSA 659:98. The log to use for this purpose is available in *ElectioNet* > Help > Instructions. The log must document:

- The total number of boxes, including both the red ink label “ballots” and the blue ink label “Absentee Voting Materials” boxes. This number must match the number written onto the sealing label for all boxes in the “y” position. That label requires entries where it reads *_x_ of _y_ boxes*, with *x* being a sequential number, 1 for the first box, 2 for the second, etc. Use one numbering sequence for all boxes. The number written in the “y” position must be the same on all labels and must equal the total number of boxes (ballots and absentee voting materials);
- The initial storage of the sealed boxes of ballots and absentee voting materials;
- All access made to the sealed boxes, for example removal of the boxes of ballots from a town election for a town recount and then their return to storage; and
- The transfer of custody of the boxes to the Secretary of State for purposes of a recount; or
- The removal of the boxes from storage and their details of their destruction.

The Secretary of State’s instructions for the log requires the signature of the clerk, deputy clerk, or assistant clerk and at least one witness for each entry. The log must be kept at the clerk’s office. The log is a public document subject to disclosure under the

Right-to-Know law. The log should be preserved for the same period as is required for the marked checklists from the election, 7 years following the election or until the contest is settled and all appeals have expired, whichever is longer.

The Secretary of State’s instructions for storage of sealed boxes of ballots and sealed boxes of absentee voting materials and the required chain of custody log are at page 397 and are available in *ElectioNet* > Help > Instructions. RSA 659:98. HB1457 (2022)

IV. POST ELECTION DAY

CERTIFYING THE WINNERS

Following a primary election, the Secretary of State will directly notify all persons who won a nomination by write-in. RSA 659:89.

Following a state general election, the Governor for federal offices and the Secretary of State for state and county offices will issue a certificate of election after the time for any recount has passed. RSA 659:84.

PRESERVATION OF CHECKLIST

Within 90 days of the closing of the polls after each state general election and a presidential primary, the supervisors must forward one original marked check-in checklist used at the election to the State Archives in Concord. RSA 659:102. The clerk shall preserve a copy to be available for at least 7 years as a public record at the clerk's office. RSA 659:102; RSA 33-A:3-a, CXL.

Names of voters who registered to vote and who voted in any state primary or state general election shall be included on the checklist and marked as such by the supervisors. Those voters shall be included on the voter checklist and database of registered voters for all future federal, state and local elections, so long as they are qualified to vote in these elections. RSA 654:7-b.

The duties of supervisors of the checklist include the data entry of all voter registration information and the scanning of voter history from the checklist into *ElectioNet*.

After every election, state or local, the town or city clerk must preserve a marked copy of the checklist as a public record for a period of at least 7 years. See retention chart at page 440. RSA 659:102; RSA 33-A:3-a.

VOTING HISTORY IN TOWN, SCHOOL, AND VILLAGE DISTRICT ELECTIONS

The Secretary of State is now required to provide political parties, political committees, and candidates for county, state, or federal office who purchase lists of registered voters, with each voter's history including each "municipal election" for the preceding 2 years. RSA 654:31, IV. This requires the supervisors of the checklist to scan or enter the history of voters into *ElectioNet*. This has been required for city and town elections for some time. Where school elections are held simultaneously with town elections, it will be necessary for the clerk to include the school district in the name of the election. Where school district or village district elections are held on a separate date from the town election, the supervisors and the clerk must collaborate to enter the election into *ElectioNet*. The supervisors must scan or enter the history of the voters who participate in the school or village district election into *ElectioNet*. Many supervisors do this currently. Those who have not been documenting the voting history for separate school and village district elections must start doing so for all elections held starting July 19, 2022. (HB 1010).

PRESERVATION OF BALLOTS AND RELATED MATERIALS

Ballots, absentee ballot applications, absentee affidavits, absentee ballot lists, and challenged voter affidavits must be retained by the clerk:

- For federal elections, until the contest is settled and all appeals have expired (or investigations are complete) or at least 22 months after the election, whichever is longer.
- For non-federal elections, until the

contest is settled and all appeals have expired, or at least 60 days after the election, whichever is longer.

- Challenged Voter Affidavits from non-federal elections must be kept for 22 months after the election or until all appeals have expired (and investigations are complete), whichever is longer.

See retention chart at page 440. RSA 33-A:3-a; RSA 659:99; RSA 659:100.

RECORDING USE OF OUT-OF- STATE IDENTIFICATION

When a voter obtains a ballot with either an out-of-state driver's license or identification card, the ballot clerk must write the two letter state abbreviation (MA, ME, VT, NY, etc.) on the checklist. The supervisors or clerk must record this data in *ElectioNet*. Within 30 days of the election, the supervisors of the checklist, or someone designated by them, shall scan the voter ID number and the state of issuance of a voter's driver's license or identification card into *ElectioNet*.

ElectioNet also requires the supervisors to report if there are no voters in their polling place who used an out-of-state driver's license or non-driver ID to verify their identity. The *ElectioNet* entry screen for activities/batch elections/record of out-of-state driver's license state, has a button for this purpose.

V. TOWN ELECTIONS

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ELECTION = OFFICIAL BALLOT VOTING DAY

For the purposes of this section, "election" refers to any voting at which absentee ballots are required. The statutes refer to this as the "election" or as the "official ballot voting day." See New Hampshire Constitution, Part 1, Article 11. "Meeting" refers to the deliberative or business session of the town, school or village. RSA 652:1 through RSA 652:10.

OFFICIAL VS. UNOFFICIAL BALLOT SYSTEMS

Every town in New Hampshire elects officers and conducts certain town business using either unofficial ballots, partisan official ballots or non-partisan official ballots. In order to use either partisan official or non-partisan official ballots for election of officers, a town must vote to adopt such a system at a town meeting. All towns which have never voted to adopt an official ballot system or which have voted to rescind the use of official ballots are to conduct business by unofficial ballots. An unofficial ballot is the use of plain paper distributed to voters at a meeting, where the voter writes the name of the candidate they vote for on the paper. An unofficial ballot on a question may have "yes" and "no" pre-printed on paper ballots. RSA 669:11; RSA 669:12; RSA 669:13; RSA 669:14.

Any vote to adopt or rescind the use of partisan or non-partisan official ballots shall not take effect until the next following town election.

ELECTION DAY REGISTRATION

Any person may register to vote with the supervisors of the checklist at any election (i.e. primary and general elections, town, city, school district and village district elections). The applicant must provide proof of identity, age, citizenship and domicile as required by RSA 654:12.

FILING FOR OFFICE

Towns that have adopted official ballots must print ballots in advance of the town election.

Currently no towns use the partisan official ballot system. Refer to RSA 669:37 through RSA 669:51 for information on that system.

Most towns use non-partisan official ballots. Candidates who desire to seek election to a certain office must file a declaration of candidacy with the town clerk during the 10 day filing period which begins on the seventh Wednesday before the town election. All candidates who file on the last day of the filing period shall do so in person before the town clerk. Prior to the last day of the filing period, a voter can mail or have someone else deliver a completed declaration of candidacy to the clerk. RSA 669:10-19.

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The clerk shall verify that the person submitting the declaration of candidacy is a registered voter in the town.

No person shall file as a candidate for a town officer under the provisions of RSA 669:19 or RSA 669:42 for more than one seat on the same town or school district board, commission, committee or council.

RSA 669:17-a. No person shall at the same time file a declaration of candidacy for any 2 or more elected offices that are incompatible under RSA 669:7.

Towns using unofficial ballots may entertain nominations for people who wish to run for office from the floor at a town meeting.

WITHDRAWAL OF CANDIDACY PROHIBITED

After a filing period for a non-partisan town election, or after a caucus has certified a nominee for a partisan election, the town clerk may not accept withdrawals of candidacy unless the candidate dies or makes oath that he or she does not qualify because of age, domicile, or incapacitating physical disability acquired subsequent to his filing. RSA 669:22.

ABSENTEE VOTING

Towns using official ballots must provide for absentee voting whenever official ballots are used. The clerk must prepare and send to voters upon request absentee ballots and other absentee voting materials. RSA 669:26-29.

Send UOCAVA voters who qualify to vote on a regular ballot at state elections an absentee ballot for town, school, and village district elections. Do not send an absentee ballot to those voters who are only eligible to vote for federal offices. Use Federal Office Only (FOO) ballots only at state elections.

POLLING HOURS

Polling hours for an official ballot vote must be fixed either by action of a previous town meeting or by a vote of the board of

selectmen. Post polling hours as beginning at a certain time and ending not earlier than another specified hour.

The voters present at the election may vote to extend these hours, but may not vote to shorten them.

Post the polling hours and polling place in a warrant which clearly states which items are to be voted on by official ballot. The selectmen are responsible for posting the warrant “at the place of the meeting and a like copy at one other public place in the town, at least 14 days before the day of the meeting.” When counting out the 14 days do not include the day of the posting nor the day of the meeting, but do count Saturdays, Sundays, and legal holidays. RSA 39:5. The selectmen posting the warrant shall provide a certificate to the town clerk that the posting was done, showing the date, and places the warrant was posted. RSA 39:7.

Where unofficial ballots are used, the warrant must state the place, date, and hour of the meeting, the items to be considered and the officers to be elected. RSA 659:6; RSA 669:2; RSA 669:25.

USE OF OFFICIAL BALLOTS

Most towns in New Hampshire and all cities use official ballots to elect officers. An official ballot is a pre-printed ballot containing the names of the candidates who have filed, spaces for write-in votes, and the text of any questions to be voted on. Absentee voting must be available at all elections where official ballots are used. New Hampshire Constitution, Part 1, Article 11. Any town may vote to adopt partisan official ballots or non-partisan official ballots for the election of town officers.

Some statutes require votes on certain questions to be taken by official ballot. For instance, RSA 41:8-b states that the question of whether a town will increase the membership of the board of selectmen must be printed on an official ballot. The language

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of the question is fixed by law. If the town does not use official ballots, the clerk is instructed to prepare a printed ballot for that question.

In other instances, the clerk would print the question on an official ballot only if that town uses official ballots for the election of officers. Such is the case with the question of combining the offices of town clerk and tax collector. (RSA 41:45-a.) If the town does not use official ballots, the question would be voted on by unofficial ballot (yes-no ballot) at the town meeting.

In most circumstances, unless a specific question is outlined in a statute with a specific direction that the question is to be placed on the official ballot, that question shall not be printed on an official ballot. The law authorizes, but does not require, the use of an official ballot for certain questions where state law prescribes specific wording to be printed on a ballot for an article to be put to the voters.

The vote on any other such question would be taken by voice vote, a division vote, or by a yes-no ballot vote at the town meeting. RSA 39:3-d.

DESIGNING OFFICIAL BALLOTS

The offices listed on a ballot are identical on regular, absentee (non-UOCAVA) and sample ballots. Non-UOCAVA absentee ballots must be printed on the same color paper as regular ballots. The order of offices, while dictated by state law for state elections, is left to the discretion of the town or city clerk for local elections. Most town clerks print the offices which a town is required to elect first on the ballot - moderator, selectman, town clerk, supervisors of the checklist. Optional offices such as auditor, sewer commissioner, constable, etc. are usually printed further down on the ballot.

Whenever there are two or more candidates for the same office whose names will appear together within the same column or list on a

ballot, the position of such names shall be determined according to RSA 656:5-a and the following chart, which shall be valid through June 2024, after which date a new order will be established:

The following chart is also available on page 435.

Order of Names on Ballots pursuant to RSA 656:5-a (Effective from June 15, 2022 through June 2024)				
# of Candidates	# drawn for start of rotation of names			
2	2			
3	1	See sample below		
4	2			
5	1			
6	1			
7	7			
8	7			
9	2			
10	6	See sample below		
11	3			
12	3			
13	8			
14	11			
15	4			
16	5			
17	7			
18	18			
19	19			
20	18			
<p>EXAMPLES: <i>If you have 3 candidates for an office, place your candidates in alphabetical order by surname:</i></p> <p>1) Martha Jones 2) Larry Smith 3) John Zorro</p> <p>Since the number 1 was drawn for 3 filed candidates, they would be listed on the ballot with the first candidate listed first.</p> <p>1) Martha Jones 2) Larry Smith 3) John Zorro</p> <p><i>If you have 10 candidates for an office, since the number 6 was drawn for 10 filed candidates, place your candidates in alphabetical order by surname.</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Order of Names on Ballot</p> <p>1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro</p> </td> <td style="width: 50%; vertical-align: top;"> <p>6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French</p> </td> </tr> </table>			<p>Order of Names on Ballot</p> <p>1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro</p>	<p>6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French</p>
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To determine the order of names on each ballot, the candidates for each office in the same list shall be temporarily listed alphabetically by surnames and the positions in such list shall be temporarily numbered in ascending order. The candidate whose position in the initial temporary list equals the seed number selected under the above chart for the appropriate list length shall appear first on the ballot. The order of candidates after the candidate in the first position shall follow alphabetically by surname. Surnames

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beginning with the letter “a” will follow surnames beginning with the letter “z.” RSA 656:5-a; RSA 655:32; RSA 669:23.

Questions on a town ballot shall provide instructions on what mark to make next to the answer they desire to give.

Typically, the ballot has an oval or box beside each choice, to be marked by the voter. RSA 659:19.

CHECKLIST FOR PREPARING THE OFFICIAL BALLOT

1. Is everything spelled correctly?
2. Are the offices in logical order?
3. Is all the print uniform and legible?
4. Are names of candidates in correct order if more than one name appears for that office?
5. Are absentee ballots and regular ballots printed on the same color paper as required by RSA 669:24?
6. Have you made sure to print sufficient numbers of regular, absentee and sample ballots?
7. Is there a blank line for each open seat for each office for voters to write in their choice(s)?

The endorsement of an official ballot is the same for partisan and non-partisan ballots and includes:

- Name of town or city (ward).
- Date of election.
- Type of election - town election, special town election, municipal primary election, etc.
- Facsimile signature of town or city clerk. Town or city seal (optional).

FOLDING OFFICIAL BALLOTS

All hand count ballots must be folded with the endorsement side showing so that a voter's marks cannot be seen. Absentee

ballots must be folded small enough to fit into an affidavit envelope.

Official AccuVote ballots do not need to be folded. Provide privacy folders for those voters who wish to use them.

SAMPLE BALLOTS

Sample ballots should not have the signature or facsimile of the signature of the clerk. Should someone make copies of a sample ballot on the paper color of the official ballot, the absence of the clerk's signature will reveal that it is not an official ballot. RSA 656:18, explicitly provides that the sample ballots prepared by the Secretary of State for state elections shall be “*without facsimile endorsement.*” RSA 656:17 requires that absentee and official ballots have “*a facsimile of the signature of the secretary of state.*” As the chapters on town, school, and village districts are silent regarding sample ballots, best practice is for clerks to follow provisions for state elections when preparing sample ballots for town, city, school, or village district elections.

RECOUNTS OF TOWN ELECTIONS

Any person for whom a vote was cast and recorded for town office may request a recount of the ballots cast. RSA 669:30. The application must be in writing and submitted to the town clerk with the applicable fee, as set forth in RSA 669:31. See recount chart on page 431. The deadline for applying is 5 p.m. on the Friday following the election.

The clerk then appoints a time for the recount, which is not earlier than 5 days, nor later than 10 days after receipt of the application. This period allows all recounts requested for an election to be held at one time if the clerk so wishes. The clerk must notify each candidate of the scheduled date of the recount at least 3 days prior to the recount. RSA 669:30; RSA 669:31. The notice should include information on the number of recount teams that will be used so that the candidates have the opportunity to

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bring an appropriate number of representatives so that the candidate or a representative can watch each recount team.

A board of recount composed of the town clerk, moderator and selectmen conducts the recount. The moderator may appoint additional assistants, who are registered voters in the town, to help count ballots during the recount.

A recount officer whose election is being recounted must disqualify himself or herself from the recount.

The moderator would then appoint a replacement. Give candidates or their representatives an opportunity to view, but not touch or handle, the ballots at the recount and to record any protest they have as to how any particular ballot is counted. RSA 669:32.

“When counting ballots [during a recount] the board of recount or their assistants shall visually inspect each ballot. No mechanical, optical, or electronic device shall be used for the counting of ballots.” RSA 669:32.

Following the recount, the ballots are resealed and preserved by the town clerk for at least 60 days unless otherwise instructed by a court. RSA 669:33.

See the section on Swearing In of Election Officials, at page 128 and 318 for the law on when the winner of a recount can take office. See the Oath of Office on page 317.

Any 10 voters of a town may request a recount of a question appearing on the official ballot by applying to the town clerk (or school district clerk in the case of school district questions appearing on the school district ballot). The request must be filed in writing before the expiration of 7 days from the election (or the special meeting). The clerk shall appoint a time and place for the recount which shall be held not earlier than 5 days nor later than 10 days after receipt of said request.

The clerk shall give notice by mail of the recount to the first-named voter who applied for a recount on a question and to any other person who requested notice in writing, at least 3 days prior to the day appointed for the recount of ballots. Notice of the time and place of the recount shall be posted in 2 public places at least 24 hours prior to the recount. RSA 40:4-c, I.

The applicant shall pay to the town clerk, for the use of the town, the following fee:

- (a) If the difference between the vote cast for the applying candidate and a candidate declared elected is less than one percent of the total votes cast, the fee shall be \$10.
- (b) If the difference between the vote cast for the applying candidate and a candidate declared elected is between one percent and 2 percent of the total votes cast, the fee shall be \$20.
- (c) If the difference between the vote cast for the applying candidate and a candidate declared elected is between 2 percent and 3 percent of the total votes cast, the fee shall be \$40
- (d) If the difference between the vote cast for the applying candidate and a candidate declared elected is greater than 3 percent of the total votes cast, the candidate shall pay the fee as provided in RSA 669:31, II(c) and shall agree in writing with the town clerk to pay any additional costs of the recount.

RSA 40:4- c; RSA 669:30; RSA 669:31; RSA 669:32; RSA 671:32.

REPORTING CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Towns and city councils may make bylaws requiring the reporting of certain campaign contributions to, and expenditures by, any

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candidate or political committee. The contributions or expenditures must be made for the purpose of influencing the election of any candidate for local elective office. In addition, towns may make bylaws requiring the reporting of contributions to, or expenditures by, any person or committee for the purpose of influencing the vote on any local ballot or referendum question. RSA 31:39, I(o); RSA 47:17, XIV-b.

Towns may appoint all such officers necessary to carry the bylaws into effect.

Towns may enforce the observance of the bylaws by suitable penalties not exceeding \$1,000 for each offense to be used as the town may direct. RSA 31:39, II and III.

VI. INTER-RELATION OF TOWN, SCHOOL, AND VILLAGE DISTRICT ELECTIONS

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Towns, School Districts, and Village Districts are generally separate and distinct units of government. Some exceptions exist in cities or towns with different structures created by charter or by legislation, usually a chapter law that is not part of the Revised Statutes Annotated (RSA), specific to a given jurisdiction. Each town, school district, and village district has its own governing body, budget, moderator, and clerk.

CHECKLISTS & SUPERVISORS

In contrast, the supervisors of the checklist serve the voters who live in their town or ward for the purpose of voting in town, school, and village district elections. Under New Hampshire law a person registers to vote once, even though that voter may have a right to vote in a:

- State elections;
- Town elections;
- Grade School District elections;
- Regional or Cooperative Middle School District elections;
- Regional or Cooperative High School District elections;
- Water District elections;

- Lighting, Lake, or Fire District elections; and/or
- Village District elections (formed for these or other purposes).

Determining which voters are eligible to vote in the town election and who are also eligible to vote in any one or more of the other elections is based on the geographic boundaries of the school or village district. Some districts will have the same boundary as the town. In these cases, all town voters are also voters in the district. Some village districts serve just a section within a town. Then only those town voters who also are domiciled within the boundaries of the district may vote in the district elections.

Finally, some districts encompass all or parts of two or more towns/wards. Then the supervisors from each of the towns or cities have a responsibility for a checklist of the voters from their town/city who are domiciled in the district and therefore eligible to vote in the multi-town district.

ElectioNet is designed to keep a record of which districts a voter is eligible to vote in for each domicile address. When ElectioNet was implemented, significant work was done by supervisors to establish the geographic

Elections from Start to Finish –Town, School and Village District

boundaries of each district that is entirely or partially in their town or city. Provided district boundaries are not moved and no new district is added, when the voter is entered into *ElectioNet* the system assists in assigning the voter to all districts in which he or she is entitled to vote.

CHECKLIST(S) USED AT AN ELECTION

School and Village District elections are conducted using a checklist of district voters produced and certified by the town/city supervisors/registrars.

An updated checklist must be used for all school district elections and meetings in the same way as those checklists are used in town elections. RSA 669:5. Supervisors of the town checklist also act as supervisors of the school district checklist. The supervisors must correct, certify, and post the checklist for the school district. RSA 671:15.

Any registered voter on a town or city ward checklist who is domiciled within a cooperative school district is eligible to vote at any of the cooperative school district elections or meetings. Supervisors use the Statewide Voter Registration System to keep track of school district(s) in which a voter is entitled to vote. RSA 671:17, III. Cooperative School Districts using town/city checklists are not required to maintain a separate school district checklist or conduct sessions of the supervisors. RSA 671:17, IV.

A voter whose domicile is within the village district and whose name is on the village district checklist is entitled to vote in any village district election and meeting. Updated checklists must be used at all village district elections and meetings for the same purpose as a checklist for a town election. The checklist, or checklists (if the district is located in more than one town), must be used in the election of district officers.

RSA 654:1; through RSA 654:6 RSA 669:5. RSA 670:3.

The commissioners of a village district shall give the supervisors of the checklist of the town(s) or city(ies) in which the district is situated 60 days' notice of any village district election. RSA 670:5.

ELECTION DAY REGISTRATION AT DISTRICT ELECTIONS

Where an official ballot is used at a School or Village District election, the town supervisors must provide election day registration. *“Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place on election day. The voter may then vote at that election.”* RSA 654:7-a, II. *“[T]he term “election day” shall refer to state primary and to state general elections, to all town, city, school district, and village district elections, and to all official ballot meetings where persons may vote by absentee ballot.”* RSA 654:7-A, II.

School and Village Districts who adopt the non-partisan official ballot election system are subject to the laws governing town official ballot elections. RSA 671:25; RSA 671:30; RSA 670:7. *“Every school district in the state, except one having a special statute relative to election of its district offices, shall use the non-partisan ballot system for the election of district officers, in the same manner as in towns as provided in RSA 669:19-669:25, except that all references to towns or town clerks shall be read to refer to school districts or school district clerks.”* RSA 671:30. RSA 669:25 provides in pertinent part that the *“election shall be conducted in the same manner as a state general election as provided in RSA 658 and 659”*

SUPERVISOR’S ROLE AT DISTRICT MEETINGS

The School and Village District moderator should arrange for the town supervisors to be present at district annual business meetings to assist in identifying who is eligible to participate in the meeting as a registered

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voter in the district. RSA 670:3; RSA 671:14;

The moderator may adopt a system of voter check-in that is suited to the circumstances of the district and meeting. Many moderators have the supervisors check voters in as they arrive, segregating non-voters observing the meeting in a separate area of the meeting room. Other moderators have the supervisors issue each voter a “voter card” or some similar means to distinguish voters.

If a vote at a meeting will be taken by secret ballot, for example a vote on a bond over \$100,000, voters should check-in with the supervisors, be marked as voting on a checklist, and issued a ballot. RSA 33:8-a, II.

OFFICIAL BALLOT DISTRICTS – FILING FOR OFFICE

Where an official ballot is used at the election, School and Village District clerks must provide for candidates to file for office. RSA 670:4; RSA 671:19. In districts where the clerk does not have regular office hours or an office, best practice is to provide the voters with notice and scheduled times when the clerk will be available to receive filings. The clerk must be available at least from 3:00 p.m. until 5:00 p.m. on the last day of the filing period. RSA 652:20. Consistent with RSA 671:21, III, school and village district clerks may make arrangements with the town clerk to either make use of space in the clerk’s office or to appoint the town clerk as an assistant clerk for the district for the purpose of receiving filings for office during the town clerk’s usual office hours. RSA 658:7 authorizes clerks to appoint an assistant clerk. RSA 658:8 provides that the assistant’s term expires at the termination of the proceedings at the election for which he or she was appointed. As noted above these state election statutes are incorporated into district election laws by reference.

If the school district clerk will directly receive declarations of candidacy, the clerk should verify that the person filing is a registered voter. The school clerk can obtain an

electronic copy of the current checklist, as corrected by the town supervisors at their session held on the day before the filing period opens. That electronic file is easily searchable. Alternatively, the school clerk can arrange to contact the town clerk and request the town clerk look the person up to verify voter registration status.

If the person seeking to declare for office is not a registered voter, they may not file unless they can arrange for the supervisors to meet and approve the person’s voter registration application before the close of the filing period.

If the school district clerk arranges for the town clerk, acting as the school district clerk’s assistant, to receive the declarations of candidacy, the town clerk will verify the candidate’s voter registration status using the Statewide Voter Registration System.

DISTRICT ELECTION BALLOT PREPARATION

The School and Village District clerks are responsible for preparing ballots. RSA 670:7; RSA 671:20. Where the District election will be held in coordination with the town election, it is essential that the School Board and School District clerk coordinate with the town clerk to ensure the districts absentee ballots have been provided to the town clerk by the date on which the clerk will start mailing or delivering absentee ballots to voters.

One absentee ballot request submitted to the town clerk should result in that voter being sent the same ballots the voter would receive were he or she to vote in person on election day. For many, but not all towns in New Hampshire, this means the voter is sent a town absentee ballot as well as a school district absentee ballot for each district in which that voter is entitled to vote. RSA 671:21, II.

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To ensure coordinated management of responding to absentee ballot requests, best practice is for the town clerk to send a written notice to the school clerk, school board, and superintendent detailing the dates when the town plans to complete its preparation for the election highlighting the date on which the clerk expects to start mailing absentee ballots to voters. For towns and school districts with March elections, the letter should be sent by the prior December. For those with later election dates, send the notice approximately 3 months before the election. The notice should make clear the deadline for the school district to provide the town clerk with absentee ballots and what will occur if the school ballots are not received by that deadline.

Town clerks should not unreasonably delay sending out town absentee ballots while waiting to receive school district absentee ballots which are not delivered by the deadline. Clerks should include a notice to voters explaining how voters obtain a school district absentee ballot if:

- School district absentee ballots are not available when town absentee ballots are mailed;
- The school district holds a separate election on a date different from the town's election, explaining that the voter must submit a separate absentee ballot request to the school district clerk, providing the date of the school district election and contact information for the school district clerk. The school district should provide an absentee ballot request form formatted for the school district election, include the form with the town absentee ballot mailing.

The town and school clerk must also coordinate to ensure the two ballots are printed on different color paper. *“The ballots shall be of a color different from that of any other*

ballot being used at the town election.” RSA 671:25.

ABSENTEE BALLOT – WHO MAILES/DELIVERS TO THE VOTER

School Districts and Village Districts that have adopted use of an official ballot must provide for absentee voting. “I. A school district shall provide for absentee voting in the same manner as towns as provided in RSA 669:26-669:29 except that all duties performed therein by the town clerk shall be performed by the school district clerk. RSA 671:21.

This requires the school district clerk to determine whether a person applying for an absentee school district ballot is a registered voter. The school district clerk can either obtain a copy of the checklist(s) from the clerk or supervisors of each town in the district or make arrangement to verify applicant's registration status with the appropriate town clerk. Town clerks or supervisors should provide the school clerk with an electronic copy of the current checklist, prior to each year's school district election, for this purpose, without a fee.

A voter submitting an application for an absentee ballot for a town election shall also be issued a ballot for the School District election, if the election is coordinated with the town election. The School District ballots must be issued from and returned to the town clerk's office. “[I]f any school district votes to elect its district officers by separate ballot at the town election as provided in RSA 671:22, II, then for either the town election or the school district election an application for an absentee ballot shall be sufficient in order to receive an absentee ballot for both the town election and the school district election. If a town adopts the provisions of RSA 671:22, II, all forms relative to applications for absentee ballots, all absentee ballots, and all returns of absentee ballots shall be made only available at and only returnable to, as applicable, the office of each town clerk of each town comprising the school district.” RSA 671:21.

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Where the town and school elections are coordinated, the statutes provide that the school clerk will process absentee ballot requests at the town clerk's office. Common practice is that the School District provides the town clerk with the School District Absentee Ballots. The town clerk includes a school district ballot in the envelope when mailing or delivering a town absentee ballot to a voter. The voter returns both town and school absentee ballots to the town clerk in one envelope. On election day, the town moderator processes the returned envelope.

Each town clerk shall make facilities in the town clerk's office available for the school district clerk to perform school district functions in connection with absentee voting. It shall be the duty of the school district clerk to post a notice at the school district clerk's office informing voters that all absentee voting procedures for school district elections shall be handled only through the town clerk's office." RSA 671:21, III.

SCHOOL ELECTIONS HELD AT TOWN ELECTIONS

School District elections are held on the same day using the same polling place as town elections under different circumstances. Many School Districts have adopted a coordinated election pursuant to RSA 671:22, II. Others conduct simultaneous elections, which are not coordinated, but use the same checklist, polling place, and election machinery pursuant to RSA 671:22, III.

Where the election is coordinated, “[t]he town election officials shall act in like capacity for the school district in conducting the school district election. After the close of the polls, the town election officials shall turn all school district ballots over to the moderator of the school district, who shall then proceed to count the ballots publicly with the assistance of such legal voters of the district as the moderator of the school district shall appoint.” RSA 671:26. This means that the town moderator is in charge of the election and

polling place for all purposes until the polls close to voting. While it is common for the school district moderator, clerk, and school board members to be present, the statute provides that the town officers stand in the place of the school officers during official ballot voting. The town moderator manages challenges to voters and processes absentee ballots for both the town and school election. The school district officials step in and resume their roles when the polls close to voting and it is time to count ballots.

The requirement that the Selectmen, or their designees, be present at the election is generally understood to apply to members of the school board, however, at a coordinated election, the school board member's presence is not required until they resume their roles when the polls close to voting and ballot counting starts.

See RSA 671:26-a for coordination of town and school elections where the school district has adopted SB2, the official ballot referendum form of meeting, and while the town continues to use a traditional form of meeting.

If the elections are not coordinated, the school district election officials, the moderator, clerk, and school board, perform their statutory roles throughout election day. School Board members, or their designees, should be present throughout the election. The town supervisors fulfill their role registering voters at the polling place as both town and school district supervisors. Town ballot clerks use a single checklist to check in the voters and mark them as having voted. The check-in marks document that the voter was issued both a town and a school ballot. Entering the voter's history in the Statewide Voter Registration System creates a record that the voter cast a ballot for both the town and school elections.

Elections from Start to Finish –Town, School and Village District

Where the two elections are not coordinated, the town and school moderator must cooperate in managing challenges to voters and processing absentee ballots.

“As used in this section, the words, “any school district” shall mean (a) a school district which is coextensive with the town in which it is located, or (b) a cooperative school district composed of preexisting districts which were each coextensive with the towns in which they are located, or (c) a cooperative school district which is composed of a preexisting cooperative district as defined in (b) and other school districts as defined in (a).” RSA 671:22, I.

“Nothing herein shall preclude other appropriate coordination of school district and town elections consistent with all the applicable requirements of law where school district and town meetings are simultaneously in session and school districts have duly voted to adopt as official for school district purposes the town checklist, polling place, and election machinery.” RSA 671:22, III.

COOPERATIVE SCHOOL DISTRICTS – BALLOT COUNTING

In towns where a cooperative school district election is coordinated with the town election, the town officials in each town in the district count the school district ballots cast in that town. The results are conveyed to the cooperative school district clerk through a list of the number of votes received by each candidate for school district office and the number of overvotes and undervotes for each office and question. That list is signed by the town clerk and witnessed by the town moderator. Once the cooperative school district clerk receives the list, that clerk will aggregate the results and publicly announces the outcome of the election.

“[I]n the case of cooperative school districts, the town election officials, immediately after the close of the polls, shall count the ballots for school district officers and, within 24 hours, forward to the school district clerk a list of the number of votes received by each candidate for school district office. The list shall be signed by the town clerk and witnessed by the town

moderator. Upon receipt of the list, the cooperative school district clerk shall record the results from each town and shall, when the results from all towns within the district have been recorded, determine and announce the names of the winning candidates.” RSA 671:26

The Constitutional requirement that the moderator publicly announce the results applies to the results in that polling place for the cooperative school district. The election is “governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town or city clerk, in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person” New Hampshire Constitution, Part 2, Article 32. It is appropriate when making the public announcement of the results to explain that the outcome of the election will be determined by the cooperative school district clerk by combining the results from all polling places within the cooperative school district.

SEPARATE ELECTIONS

All Village Districts and some School Districts conduct separate elections on a different day and may use a different polling place. The election is conducted by the Village District or School District Moderator. The town supervisors of the checklist, nonetheless, serve as the supervisors for the election and provide the checklist of those voters in their town(s) who are domiciled in the district and eligible to vote. The School Board shall appoint ballot clerks (inspectors of election) to serve at the separate school district election. RSA 671:28.

The supervisors must arrange for the town clerk to enter the school district election in *ElectioNet*. Following the election, the supervisors must enter or scan the history of

voting.

TRADITIONAL MEETING – UNOFFICIAL BALLOT

Many Village Districts operate in the traditional form where the election of district officers occurs during the traditional meeting with nominations from the floor and secret ballot voting where the voter writes the name of his or her choice on an unofficial paper ballot. *“A village district which has not adopted the non-partisan ballot system but which votes to elect district officers by ballot shall be subject to the provisions of RSA 669:54-669:60 for the unofficial ballot system in towns.”* RSA 670:7. A majority vote is required to win an office. RSA 669:60. If no candidate receives a majority of the votes cast, a further vote must be taken. This may occur where there are three or more candidates for a single seat. While one candidate may receive the highest number of votes, if that number is not at least 50% of the votes cast plus 1, no candidate won and the voter must vote again. There is no automatic system requiring the candidate with the least votes to drop out.

Under this unofficial ballot system a candidate does not file for office in advance of the election. Absentee voting is not available. Absentee voting is not required by statute and would be impossible because the names of candidates are not known until nominations are made from the floor during the meeting.

While the town supervisors are not required to hold a session for election day voter registration at a village district unofficial ballot election, as the supervisors will be present to check in voters to the meeting or to assist with issuing unofficial ballots, best practice is to conduct a session. This allows a qualified individual who has not registered to vote to register and participate in the meeting. Once registered, the voter will be registered for all future state, town, and school district elections.

VOTING HISTORY IN TOWN, SCHOOL, AND VILLAGE DISTRICT ELECTIONS

The Secretary of State is now required to provide political parties, political committees, and candidates for county, state, or federal office who purchase lists of registered voters, with each voter’s history including each “municipal election” for the preceding 2 years. RSA 654:31, IV. This requires the supervisors of the checklist to scan or enter the history of voters into *ElectioNet*. This has been required for city and town elections for some time. Where school elections are held simultaneously with town elections, it will be necessary for the clerk to include the school district in the name of the election. Where school district or village district elections are held on a separate date from the town election, the supervisors and the clerk must collaborate to enter the election into *ElectioNet*. The supervisors must scan or enter the history of the voters who participate in the school or village district election into *ElectioNet*. Many supervisors do this currently. Those who have not been documenting the voting history for separate school and village district elections must start doing so for all elections held starting July 19, 2022. (HB 1010).

VACANCIES IN SCHOOL DISTRICT OFFICES

School election law was revised to establish the same rule that has long existed in town election law, that any vacancy that occurs on or after the first day of the filing period is filled by election at the following year’s election. “Any vacancy which occurs between the beginning of the filing period and the district election shall not be filled by official ballot until the annual district election the following year.” RSA 671:33, V. In this circumstance the vacancy is filled by the body or official having statutory authority to fill a vacancy, with the appointee serving for one year, until someone is elected to fill the

position.

Best practice is for a person resigning to submit a written resignation to the governing body and if some other official or entity has authority to make an appointment, to that authority. If the person resigning does so orally and refuses or neglects to submit the resignation in writing, best practice is for the governing body to vote to accept the oral resignation and ensure that it is noted in the body's public minutes. While the date on the written resignation may be treated as the date of the resignation, best practice is to treat the date the governing body accepts the resignation, by vote at a properly noticed public meeting, as the date of the resignation. Consult town/school district legal counsel if a question arises as to the effective date of a resignation.

RSA 671:33 was also amended to require that in a cooperative school district with a school board vacancy "A member-at-large shall also be included as a representative of the same town."

VILLAGE DISTRICTS – RIGHT-TO-KNOW

RSA 52:11-b affirms that public bodies of a Village District are subject to the Right-to-Know law.

"Every legislative body, governing body, board, commission, or committee of any village district established under this chapter shall be deemed a "public body" under RSA 91-A and shall be subject to all applicable provisions of that chapter." RSA 52:11-b.

PART 2 – RESPONSIBILITIES OF ELECTION OFFICIALS BY OFFICE

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Local election officials perform the vital function of protecting the right to vote in their towns and cities. They work long hours under stressful conditions. Polling places are inherently occupied by people with differing points of view. In order to protect the legitimacy of the election, it is important to treat all voters equally and with respect at all times. Election workers must respect the right of every voter to hold views that may be objectionable to the official. Our democracy benefits when election officials take the time to patiently explain the election process and laws to a person who, based on a likely misunderstanding, believes official misconduct or election fraud is occurring.

Who Is An Election Officer?

“Election Officer” shall mean any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar. RSA 652:14.

The election law chapters use the term “election official,” but it is not defined by statute. The election law uses the terms “election officer” and “election official” in manner that suggests they are interchangeable.

MODERATOR

A moderator is elected for a two-year term at the annual meeting/election. The town

Responsibilities of Election Officials

election of a moderator happens every even-numbered year in towns, and every other regular city election in cities. RSA 40:1; RSA 44:12.

TOWN CLERK

Town clerks are elected for a one year or three year term, depending upon which option the town voted to enact. RSA 41:45-a; RSA 41:2-a; RSA 41:16-a; RSA 41:26-b.

SELECTMAN

Selectmen are elected for a three year term at the annual meeting. RSA 41:8 through 8-e.

SUPERVISOR OF THE CHECKLIST

Supervisors of the checklist are elected for a six year term, one elected every even numbered year. RSA 41:46-a.

INSPECTORS OF ELECTION

There shall be two inspectors from each of the two parties that received the largest number of votes cast for governor in the last previous general election. RSA 658:2. Each inspector of election shall be sworn and hold office for two years from August 1 in the year he or she is appointed or until a successor is appointed and qualified. RSA 658:4. Inspectors of Elections are not “election officers.” While they can be assigned to other tasks, most often Inspectors of Election serve as ballot clerks. Ballot clerks staff the check-in table, verify a person is registered, then issue the voter a ballot. Other election officials can also be assigned to work as a ballot clerk.

Moderators should request appointment by the two parties, or if not appointed by the parties, appointment by the selectmen of as many additional Inspectors of Election as are needed to effectively staff each checklist check-in station, a greeter position, and fulfill other anticipated duties based on the projected turnout for the election.

Moderators report it is beneficial to have two or more shifts of ballot clerks and sufficient numbers to allow regular breaks during busy

elections. While two or more shifts requires recruiting more ballot clerks, moderators report recruitment is actually easier as people are only signing up for a shift with limited hours.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to have sufficient staff to effectively conduct the election. RSA 658:7

Best practice is to have one check-in station for every 600 expected in-person voters. Ideally, staff each check-in station with two ballot clerks, one affiliated with each political party. Consider voter turnout at the most recent similar election and the comparative number of voters on your checklist to estimate expected in-person voting. For example, for a general election in a year when U.S. President is on the ballot, start with the turnout at the last general election where the U.S. President was on the ballot (4 years previous). Adjust the estimate up or down based on the percent change in the number of voters on your checklist.

Consider turnout trends at the most recent elections and trends in use of absentee voting. If warranted adjust your projected in-person turnout accordingly.

The objective is to have a sufficient number of check-in stations so that a registered voter will check in and receive a ballot promptly. Each check-in station serves voters whose last name starts with a letter in one section of the alphabet.

A registered voter should not have to wait more than 15 minutes to get a ballot, and most should receive their ballot more quickly.

CITY ELECTION OFFICIALS

City Charters and special legislation (chapter laws) sometimes establish different election law provisions for cities as compared to towns. City election officials should consult with your city clerk and/or city legal counsel

Responsibilities of Election Officials

to identify where the election law is different for your city.

City government operates under the home rule powers recognized by the New Hampshire Constitution, Part 1, Article 39, of the New Hampshire Constitution. To that end, the general court has provided cities the authority to adopt charters. Within statutory limitations intended to ensure uniform procedures and practices, charters allow cities to adopt a form of government that best addresses local needs. RSA 49-B:1. Therefore, each city in the state has variations in its charter. City election officials, their terms of office, duties and titles may differ from those in towns.

Typically, city election officials include, besides the city clerk, in each ward: ward moderator, ward clerk, three ward selectmen, checklist board of supervisors or, in some cities, registrars and deputy registrars. Not all cities have each type of official.

HOW CITY ELECTION OFFICIALS ARE CHOSEN

- City Clerk: RSA 48:2 provides that a city council, being met in convention upon the day appointed by law or ordinance, shall by joint ballot elect a city clerk.
- Ward Clerks, Ward Selectmen, Ward Moderator: Shall be elected in each of the wards, and shall have the powers, perform the duties, and be subject to the liabilities of those offices in towns, so far as it relates to the warning of meetings, conducting elections, counting and declaring votes, and all other matters relating to elections. RSA 44:12.
- The equivalent of the Board of Supervisors of the checklist of a town are called Registrars of Voters in some Cities. Registrars are chosen in the manner prescribed by the city charter and have the

authority granted by the charter.

- Inspectors of Election: The appointment process is the same as in towns.

The city clerk is required to establish uniform procedures to be used at all polling places in the city. The other city election officials are required to follow the procedures established by the city clerk. The legislative body may assign the selection and equipping of polling places to the city clerk. RSA 652:14; RSA 659:9-a.

Swearing In Of Election Officials

The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office. RSA 42:2.

“Every town officer shall make and subscribe the oath or declaration as prescribed by the New Hampshire Constitution, Part 2, Article 84, and any person who violates said oath after taking the same shall be forthwith dismissed from the office involved.” RSA 42:1. See page 318.

“No person chosen or appointed to any public office or to any position where an oath is required, under any law, shall exercise such office or position or perform any act therein until he shall make and subscribe the oath or declaration as prescribed by part 2, article 84 of the constitution of New Hampshire, and any such person who violates said oath after taking the same shall be forthwith dismissed from the office or position involved.” RSA 92:2. See also, RSA 669:9: *“All town officers elected as provided in this chapter shall take an oath of office as provided in RSA 42 before qualifying for office.”*

Inspectors of Elections (ballot clerks) and any assistant or pro tempore election officials appointed to assist at elections must also take the oath of office before engaging in the duties of their position. RSA 658:4; RSA 658:7; RSA 658:23. See page 317 for a blank copy of the oath. The term of office of each of the assistant election officials appointed shall expire at the termination of the proceedings at the election for which he or she was appointed. RSA 658:8

Responsibilities of Election Officials

Except as otherwise provided, the term of any town officer elected shall begin upon his or her election and qualification for office and shall end upon the election and qualification of his or her successor. RSA 669:10, I; RSA 41:3.

No person shall assume a town office until after the time period for requesting a recount is over, except where a person is elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office. Such persons may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. In all other cases, if a recount is requested, no person shall assume that office until the recount is completed. RSA 669:10, II.

A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount.

When a different person is declared elected following the recount, if no appeal is taken, that person may take the oath of office and assume office on the sixth day following the date of the recount. If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office. RSA 669:34.

Taking the oath of office constitutes assuming office. State officers assume office on the date set by the New Hampshire Constitution and County officers assume office on the first Wednesday after the first Tuesday in January of the year following the

state general election at which they were elected. RSA 653:10.

All town officers must take the written oath of office as prescribed by the New Hampshire Constitution, Part 2, Article 84 before qualifying for office. See page 317. A blank copy of the oath appears in *ElectioNet/Help/Instructions*. RSA 669:9.

MANNER OF DISMISSAL – BREACH OF CONFIDENTIALITY

The Superior Court may dismiss a town officer who violates his or her oath of office. A party seeking dismissal of a town officer must file a petition with the Superior Court. In addition to other violations of the oath of office, a town officer may be dismissed for the improper disclosure to the public of certain confidential information which that officer learned by virtue of his or her public office. RSA 42:1-a; RSA 91-A:3; RSA 91-A:5; RSA 92:2.

Vacancies In Election Offices

A vacancy in public office occurs when a person:

- Dies, resigns or ceases to be domiciled in the state or district from which he was elected. RSA 652:12, I. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served, shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. RSA 654:1.
- Is determined by the court to be insane or mentally incompetent. RSA 652:12, II.
- Is convicted of a crime which disqualifies him or her from holding office. RSA 652:12, III. A person convicted of a felony, from the time of his or her sentence until his or her

Responsibilities of Election Officials

final discharge, may not seek the nomination of a political party or become a candidate for or hold public office. "Final discharge" means the release of a prisoner from incarceration. A person who is on probation or parole shall be considered to be finally discharged for the purpose of this section. A public office held at the time of sentencing is forfeited as of the date of the sentence. RSA 607-A:2.

- Fails or refuses to take the oath of office within the period prescribed in RSA 42:6 or to give or renew an official bond if required by law. RSA 652:12, IV. This would include a situation where a person is elected to office, but subsequently concedes that he or she is not qualified to hold office and for that reason fails or refuses to take the oath of office. It also includes a circumstance where a person is elected to office by write-in votes and chooses not to serve.
- Has his or her election voided by a court or Ballot Law Commission decision. RSA 652:12, V.
- If a State Representative or State Senator is a member of the military reserve or National Guard, and is unable to perform his or her legislative duties because of military service, as determined by the House for House members and the Senate for Senators, for more than 180 consecutive days and the selectmen from any town the Representative or Senator represents requests that the Governor and Council declare the office vacant. RSA 652:12, VI.
- The Superior Court has dismissed an officer pursuant to RSA 42:1-a.

See also RSA 654:1.

TEMPORARY ABSENCES

A vacancy must not be confused with a temporary absence. A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, or otherwise unable to perform his or her duties for a certain time period.

Fill temporary absences among election officials using the provisions of RSA 658:19 through RSA 658:23. Fill vacancies in town offices as provided in RSA 669:61 through RSA 669:75. People serving in the absence of an official serve only until the officeholder returns to service. People appointed to fill vacancies serve until the next annual town election when a person is elected to fill the unexpired term, unless otherwise stated in law. The term of a person appointed to fill a vacancy varies by office, check the statute for the specific office to determine how long the appointee will serve. RSA 669:61; RSA 658:24; RSA 659:58. For certain offices, such as Trustee of the Trust Fund or Highway agent, the appointee serves the remainder of the unexpired term. RSA 669:73; RSA 669:74.

TOWN OFFICE VACANCIES

Whenever a vacancy occurs in any elected town office or whenever a town neglects or refuses to fill an elective town office, said vacancy shall be filled by the action of that body or person authorized by law to appoint or elect such officer for a term ending upon the election and qualification of his or her successor, unless otherwise provided. At the next annual town election, unless otherwise provided by law, the voters of the town shall then elect an officer for the full term provided by law or the balance of an unexpired term provided by law, as the case may be. Any vacancy which occurs between the beginning of the filing period and the town election shall not be filled by official ballot until the annual town election the following year. RSA 669:6, I-III. RSA 669:61

A town may choose to adopt or rescind an

Responsibilities of Election Officials

alternative procedure for filling vacancies. Under the alternative procedure, if the authorized person or body does not make an appointment to fill the vacancy pursuant to RSA 669:61, I within 45 days after at least one legally-qualified person has applied in writing for such appointment, then upon the filing of a petition with the selectmen signed by the number of voters required under RSA 39:3 for the warning of a special town meeting and presented not less than 90 days before the next annual town meeting, the selectmen must call a special election to fill the vacancy. The special election is subject to the provisions of RSA 39:3 and other applicable provisions governing town elections. The person elected at the special election serves for a term ending upon the election and qualification of his or her successor. RSA 669:61, IV.

WHO FILLS THE VACANCY FOR TOWN MODERATOR?

The supervisors of the checklist will appoint someone to fill a vacancy for town moderator. If there is no board of supervisors, the town selectman will appoint someone to fill the vacancy. RSA 669:62.

WHO FILLS THE VACANCY FOR SELECTMEN?

The remaining selectmen fill a selectman vacancy. Whenever the selectmen fail to make such appointment, the Superior Court or any justice thereof, on petition of any citizen of the town may appoint a suitable person. If the town has adopted the provisions of RSA 669:61, IV, and a petition is submitted thereunder before a petition for appointment by the Superior Court is submitted, the alternative appointment procedures established in RSA 669:61, IV will apply. RSA 669:63.

WHO FILLS THE VACANCY FOR SUPERVISOR OF THE CHECKLIST?

The remaining supervisors fill a supervisor of the checklist vacancy.

The vacancy must be filled within 45 days. If there is only one member or the entire board is vacant, or the remaining supervisors fail to fill the vacancy within 45 days, the moderator shall make the appointments. If the supervisors are elected by the partisan ballot system, the appointee shall be of the same political party as the supervisor whose place he or she is filling. RSA 669:64. Currently, no New Hampshire towns use the partisan ballot system; therefore, appointees may be from any party. RSA 669:64. Vacancies in the office of a city registrar would be filled in the same manner unless the city charter makes some other provision for filling the vacancy.

WHO FILLS THE VACANCY FOR TOWN CLERK?

The selectmen fill a town clerk vacancy, except in towns where pursuant to RSA 41:18, the clerk, with approval of the selectmen, has previously appointed a deputy town clerk, in which case the deputy shall serve as town clerk until the next annual meeting. RSA 669:65.

WHO FILLS THE VACANCY FOR A COMBINED TOWN CLERK - TAX COLLECTOR?

If a town clerk tax collector vacancy occurs, the deputy provided for in RSA 41:45-c shall discharge the duties of the town clerk - tax collector until the selectmen fill the position within 30 days. RSA 669:66.

WHO FILLS THE VACANCY FOR INSPECTOR OF ELECTIONS?

Political committees or town and ward selectmen may designate a list of alternates who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the appointees fails to accept the appointment or is otherwise unavailable to perform his or her duties. RSA 658:5.

If the chair of the state political committees of the two parties have not made appointments and proper notification of

those appointments by July 15, then the town or ward selectmen, in consultation with the moderator, shall appoint Inspectors of Elections in equal numbers from the two political parties. RSA 658:2. In case any appointment is not made as provided in RSA 658:2 or RSA 658:5 or vacancies are not filled as provided in RSA 658:22, then on application of 6 qualified voters of the town or ward, a justice of the municipal or district court shall appoint the inspectors. RSA 658:6.

Cities should consult their city charter when a vacancy occurs. If the charter offers no procedure for filling a vacancy, state law may provide a procedure for filling a vacancy in a corresponding town office. If this fails, the city council may decide.

Moderators have authority to appoint assistant moderators and such other election officials as the moderator deems necessary. Use this authority to appoint sufficient ballot clerks to effectively conduct the election. RSA 658:7.

ABSENCES ON ELECTION DAY

A temporary absence means that a certain official, still qualified to hold a position, is sick, out-of-town, has recused himself or herself because he or she is running for an office other than that of an election officer or is otherwise unable to perform his or her duties for a certain period of time.

Disqualification of Election Officials

Two statutes govern disqualification of election officials in certain circumstances, RSA 659:58 and RSA 658:24. Both statutes are revised by SB 242 (2022).

“Any person, other than a moderator, clerk, selectman, inspector of election, or supervisor of the checklist, whose name appears on a ballot for an elected position, other than a position as an election official, is to be disqualified from performing duties as an election official in that election. A moderator, clerk, selectman, inspector of election, or supervisor of

the checklist, whose name appears on a ballot for an elected position, other than the position of an election official, shall be disqualified from handling of marked ballots and counting of votes pursuant to RSA 659:58.” RSA 658:24.

“Any election official who is also a candidate for office, other than a position of an election official, shall not be allowed to remain in the area designated for the counting of votes within the guardrail during the counting of votes for an office for which he is a candidate. Such official shall disqualify himself from election duties relating to the tabulation of votes; and the moderator shall appoint an assistant who shall take the same oath as, serve in the same capacity as, and have all the powers of the election official who is disqualified until such official may properly return. The moderator may assign any election official disqualified pursuant to this section to other duties not related to the tabulation of votes.” RSA 659:58.

Together, these statutes provide that:

- All election officials and inspectors of election, on the ballot seeking only an election official office, may perform their election official duties.
- All election officials on the ballot seeking an office other than a position as an election official, are disqualified from handling marked ballots, counting votes, and may not be within the area designated for ballot counting within the guardrail during the counting of votes for an office for which he or she is a candidate.
- A person who is not a moderator, clerk, selectman, inspector of elections, or supervisor of the checklist, whose name appears on the ballot for an office other than as an election official, is disqualified from performing duties as an election official in that election. For example a candidate for State Representative cannot serve as a deputy moderator, assistant clerk, or ballot clerk.

Responsibilities of Election Officials

- An Inspector of Election (Ballot Clerk) whose name is on the ballot for either an election official or other office is not disqualified from serving as a ballot clerk, but may not handle marked ballots or count ballots.

When an election officer is disqualified, the moderator appoints an assistant, who must take the oath of office, who would fulfill any duties regarding tabulation of votes.

The “tabulation of votes” is the counting of votes, whether hand counting ballots or the printing of the ballot counting device results tape. It would also include the aggregation of results from the tapes and hand counting, as well as reconciliation.

Duties “not related to the tabulation of votes” would include clearing voting booths of signs, packing away voting screens, assisting with counting the number of voters marked on the checklist as having voted or inventorying unused ballots.

Any election official whose name is on the ballot for any office who does not voluntarily recuse himself or herself from performing their election duties, must exercise due care to avoid electioneering while in the performance of his or her duties. RSA 659:44 makes it a misdemeanor for an election officer to electioneer while in the performance of official duties. Election officials in this circumstance should have a prepared response to questions or comments that avoids saying anything that is designed to influence the vote of any voter or which would appear to a reasonable third party to be electioneering.

PRO TEM ELECTION OFFICER

Temporary absences must be filled under the provisions of RSA 658:19 through RSA 658:23, which provide that an election officer pro tempore shall have all the powers and duties of the officer he or she replaces as provided in the election laws and shall take the oath of office in like manner.

TERM OF OFFICE

The term of office of a pro tem officer shall expire at the termination of the proceedings at the election for which he or she was appointed. RSA 658:23.

For example, a moderator pro tem would serve until the results were announced, the ballots sealed up on election night, and election return paperwork described in RSA 659:73 has been filed with the Secretary of State and the clerk - unless there is a recount, then until the recount is completed.

MODERATOR PRO TEM

If the moderator is absent from an election or unable to perform his or her duties, a moderator pro tempore shall be appointed by the moderator. RSA 658:19. The law has a separate provision for annual town meetings. If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the selectmen of a town where there is no board of supervisors. RSA 40:3.

CLERK PRO TEM

If the town or ward clerk is absent or unable to perform his or her duties and there is no deputy clerk as provided in RSA 41:18, a town or ward clerk pro tempore shall be appointed by the town clerk. RSA 658:20.

SUPERVISOR PRO TEM

If more than one member of the board of supervisors is absent or unable to perform his or her duties, a supervisor pro tempore shall be appointed by the moderator. RSA 658:21. If only one supervisor is absent or unable to perform his or her duties, the two remaining supervisors may appoint one or more assistant supervisors under RSA 658:7.

INSPECTOR OF ELECTIONS PRO TEM

If any of the appointed inspectors of election shall be absent or unable to perform his or her duties, the selectmen shall appoint some

Responsibilities of Election Officials

person qualified as provided in RSA 658:3, using the list of alternate appointees provided under RSA 658:4, unless no person on the list is available. RSA 658:22. If the selectmen have failed to provide adequate inspectors, the moderator may also use his or her general authority to appoint election officials to appoint inspectors pro tem. RSA 658:7.

SELECTMEN PRO TEM

“If a selectman is absent from or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a.

In other circumstances selectmen can act only by majority vote of the board, however under these circumstances, this statute authorizes individual selectmen to appoint a Selectman Pro Tem to fulfill that selectman’s election day duties. RSA 658:21-a.

INCOMPATIBILITY OF TOWN OFFICES

There are several offices in town government for which a person may not file for or serve while holding another office. RSA 669:7 deals with these offices as follows:

- No person shall at the same time file for or hold any two of the following offices: selectmen, treasurer, moderator, trustee of trust funds, collector of taxes, auditor and highway agent.
- No person shall at the same time file for or hold any two of the following offices: town treasurer, moderator, trustee of trust funds, selectman, and head of any police department on full time duty.
- No person shall at the same time file

for or hold the office of town treasurer and town clerk.

- No full time town employee shall at the same time hold the office of selectman.
- No official handling funds of the town shall at the same time hold the office of auditor.
- No selectman, moderator, town clerk, deputy town clerk or inspector of election shall file for or at the same time serve as supervisor of the checklist.
- No selectmen, town manager, school board member (except a cooperative school board member), full-time town, village district, school district employee (except a cooperative school district employee,) their associated agency employee, or village district commissioner shall file for or serve at the same time as a budget committee member at large under RSA 32.

The provisions above refer to the actual holding of office and are not to be construed to prevent the transfer between offices of information obtained in the regular conduct of business nor to prevent the personnel in any office from furnishing clerical assistance to any other office.

A town manager may be elected or appointed to any municipal office that would be subject to his or her supervision; but may not hold any other public office. For example, if the town road agent is supervised by the town manager, but the police chief is supervised by an elected police commission, the town manager could be elected or appointed as road agent, but not as police chief. RSA 669:8.

In the case of towns, any two appointed or elected members of the planning board may also serve together on any other municipal

Responsibilities of Election Officials

board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the local governing body, or a local land use board as defined in RSA 672:7 and RSA 673:7, I.

The New Hampshire Supreme Court has also recognized a common law incompatibility of offices. “The doctrine bars an individual from holding two offices when one office is subordinate to the other, as the governmental checks and balances are eliminated because an individual is reviewing his or her own work.” *Town of Littleton v Taylor*, 138 N.H. 419, 423 (1994).

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Moderator Assigns Duties

The moderator typically assigns Inspectors of Election to specific duties, including serving as ballot clerks. The title “ballot clerk” is often used to describe the position of Inspector of Elections, and for most assignments is a more accurate description. However, the moderator may assign other election officers to serve as ballot clerks.

APPOINTMENT OF INSPECTORS

Each state political committee of the two political parties which cast the largest number of votes for governor in the state at the last previous general election appoints inspectors of election. RSA 658:2. Inspectors are appointed between May 15 and July 15 of each general election year. If any party appointments are not made by July 15, the selectmen shall fill the positions in equal numbers from the two political parties. For school district meetings, conducted separately from the town election, the school board appoints inspectors. RSA 671:28.

The chair of the state political committees of the state’s largest two political parties shall notify the appointees and the town clerk, or the ward clerk and city clerk on or before July 15 of each state general election year. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to obtain the number of ballot clerks needed to effectively conduct the

election. RSA 658:7.

INSPECTORS’ QUALIFICATIONS

A person must be registered to vote at the polling place where he or she will serve to be appointed as an Inspector of Elections (Ballot Clerk). RSA 658:3.

Number Appointed

BALLOT CLERK STAFFING LEVEL

Best practice is to have at least one check-in station for every 600 expected in-person voters. Ideally, staff each check-in station with two ballot clerks, one affiliated with each political party. Consider voter turnout at the most recent similar election and the comparative number of voters on your checklist to project expected in-person voting. For example, for a general election in a year when U.S. President is on the ballot, start with the turnout at the last general election where the U.S. President was on the ballot (4 years previous). Adjust the estimate up or down based on the percent change in the number of voters on your checklist. Consider turnout trends at the most recent elections and trends in use of absentee voting. If warranted adjust your projected in-person turnout accordingly.

The objective is to have a sufficient number of check-in stations so that a registered voter will check in and receive a ballot promptly. Each check-in station serves voters whose last name starts with a letter in one section of the alphabet.

Duties of Inspectors of Election (Ballot Clerks)

A registered voter should not have to wait more than 15 minutes to get a ballot, and most should receive their ballot more quickly.

The statutes provide that two inspectors of election are appointed to act at each polling place. If the number of registered voters at a polling place exceeds 2,000, the political committees may appoint an additional inspector for each 1,500 in excess of 2,000. Each state political committee also may appoint such additional inspectors as the moderator considers necessary for the efficient conduct of the election. RSA 658:2.

ALTERNATES

State political committees or, in their absence, town and ward selectmen, in consultation with the moderator, may designate a list of alternates, who shall meet the same qualifications as inspectors of elections, to be called in numerical order to serve in case one or more of the principal appointees fails to accept the appointment or is otherwise unable to perform his or her duties. RSA 658:5.

Moderators for polling places that have a high volume of voters and high turnout at certain elections report it is helpful to have two or more shifts of ballot clerks and at least one extra clerk on each shift who can give the other ballot clerks regular breaks. Most polling places have the highest volume of voters when the polling place opens in the morning and again during the drive home period in the afternoon. Consider having extra ballot clerks and check-in stations for the busy periods at your polling place.

ELECTION DAY DUTIES

Two of the inspectors, one from each of the 2 political parties, shall be designated by the moderator at the opening of the polls to act as ballot clerks. They shall have charge of the ballots and shall furnish them to the voters. RSA 658:25.

Polling places that break the checklist into sections organized alphabetically by the first

letter of voter's last names will need two ballot clerks for each check-in section.

Ballot clerks are inspectors of election who process voters in the check-in line. The moderator may assign other election officers, including selectmen and assistant moderators to serve as ballot clerks. See page 409 for a complete description of Ballot Clerk Procedures including compliance with the Photo ID law.

The other inspectors shall be assigned such duties in the polling place as the moderator may determine, including, but not limited to, relieving the ballot clerks, greeting arriving voters, directing formation of lines at the poll entrance, keeping voting booths clear of electioneering materials left behind by voters, and providing assistance to those voters who declare under oath that they need assistance. RSA 659:20; RSA 658:25.

Most school districts have voted to combine their election with town elections. When school districts separately conduct their own election, school district inspectors shall assist the school district moderator in counting votes for school district officers and questions. RSA 671:28.

Each inspector shall be sworn to the faithful performance of his or her duties and shall hold office for two years from August 1 in the year in which he or she is appointed or until a successor is appointed and qualified. RSA 658:4. See oath of office at Page 317. Completed oath forms must be filed with the clerk. Moderators may also appoint Inspectors of Elections pro tem as assistant election officials for a particular election, in which case the pro tem official's term of office would end upon the election being finalized.

Importance Of Properly Marking The Checklist

The marked checklist serves important legal purposes:

- Identifying who has voted, so that

Duties of Inspectors of Election (Ballot Clerks)

ballot clerks do not permit the person to vote a second time;

- Identifying who voted in order to allow enforcement of the laws prohibiting voting in two towns/wards or two states in the same election;
- Allowing a count of how many voters participated in the election for comparison with the total number of ballots used at the election to verify the integrity of the election results;
- Comparing the count of total votes cast in a race, including undervotes and overvotes to ensure the tally of votes cast for a given office is consistent with the number of people who voted.

It is therefore very important that the checklist be marked in a consistent and uniform manner.

For each voter a checkmark must be entered next to the voter's name at the start of the voter intake, immediately upon finding the voter's name on the checklist. Put a check or X in the box on the left margin.

Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID	Barcode
<input checked="" type="checkbox"/>	UND CLARK, JOSEPH MICHAEL	<input checked="" type="checkbox"/>	97 MAIN ST	PO Box 95 PO BOX 129-ANYTOWN, 00 NH 99999 - 1234	300		
<input checked="" type="checkbox"/>	DEM Clark, Mable Elle	<input type="checkbox"/>	22 Main St		00	300	
<input type="checkbox"/>	UND ABEAR, RONALD	<input type="checkbox"/>	717 ELM ST		00	300	
<input checked="" type="checkbox"/>	REP ABLE, CONSTANCE DENISE	<input type="checkbox"/>	22 BEAN RD		00	300	
<input checked="" type="checkbox"/>	REP ABRAMA, GROVER	<input type="checkbox"/>	98 MAIN ST		00	300	

After the voter's address and identity has been verified, and at the moment when the voter will be issued a ballot, a single thin line must be drawn through the voter's last name using a ruler or other straight edge.

Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID	Barcode
<input checked="" type="checkbox"/>	UND CLARK, JOSEPH MICHAEL	<input checked="" type="checkbox"/>	97 MAIN ST	PO Box 95 PO BOX 129-ANYTOWN, 00 NH 99999 - 1234	300		
<input checked="" type="checkbox"/>	DEM Clark, Mable Elle	<input type="checkbox"/>	22 Main St		00	300	
<input type="checkbox"/>	UND ABEAR, RONALD	<input type="checkbox"/>	717 ELM ST		00	300	
<input checked="" type="checkbox"/>	REP ABLE, CONSTANCE DENISE	<input type="checkbox"/>	22 BEAN RD		00	300	
<input checked="" type="checkbox"/>	REP ABRAMA, GROVER	<input type="checkbox"/>	98 MAIN ST		00	300	

Be careful to mark the correct name on the checklist.

If a ballot clerk realizes that a mistake has

been made, for example the wrong voter has been checked off, a corrective note must be written on the checklist along with the initials of the official who made the correction. The official responsible for noting corrections should be designated by the moderator prior to the election, whether it is the ballot clerk, the moderator, or the moderator's designee. Checklist Used At An Election

Prior to election day, do not mark the checklist used at an election in any manner that could be misunderstood as documenting that the person voted. The practice of pre marking absentee voters on the checklist as having voted in advance of the election is improper and is a suspected source of inaccurate checklist markings regarding absentee voters. It is, however, permissible to highlight the names of voters who have returned an absentee ballot. Some election officials report that makes it easier and faster to find and mark the voter when processing absentee ballots at the polls on election day.

ElectioNet will print the names of voters who have been entered into ElectioNet as requesting an absentee ballot in bold. Voters requesting absentee ballots after the checklist is printed, will not be printed in bold. Printing names in bold is designed to aid in locating and highlighting before election day voters who return an absentee ballot or on election day marking the voter as having voted by absentee.

A ballot clerk marking absentee voters and finding a voter's name that is not highlighted is alerted to look more carefully to ensure the correct voter is being marked. While some voters will be issued absentee ballots after the checklist is printed and will be the correct voter, often the ballot clerk may be mistakenly focusing on a voter with the same or a similar name, who is not the absentee voter.

Duties of Inspectors of Election (Ballot Clerks)

Instruct ballot clerks to make only those marks on the checklist that are required by law.

- Checkmark beside the name immediately upon finding the name on the checklist as the check in starts – Ballot Clerk Procedure – page 409.
- RSA 659:13, requires that ballot clerks “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address information in voter registration files. Address Changes must be marked in red ink on the checklist. – RSA 659:13, I (Supervisors may establish a local policy of having the ballot clerks ask voters, after they vote, to see the supervisors to complete a new Voter Registration Form to provide a clear record of the new address);
- When an out-of-state driver license or non-driver ID is used as photo ID, enter the two-letter abbreviation for the state that issued the ID. RSA 659:13, I(b).
- If the voter did not have photo ID and is presenting a completed Challenged Voter Affidavit (“CVA”) with a photograph, religious exemption from a photograph affidavit, or a CVA and New Voter Authorization reporting the photo was taken and attached to the Qualified Voter Affidavit, put a check mark in the CVA box on the checklist. RSA 659:13, I(c)(1)
- After issuing the voter a ballot, the ballot clerk must draw a single thin line with a ruler or straight edge through the last name of the voter. RSA 659:13, I(b).
- For an absentee voter, when the

moderator comes to the checklist with the absentee ballot in its envelope, the ballot clerk must mark “A.V.” in red ink beside the voter’s name, place a checkmark beside the voter’s name, and draw a single thin line through the voter’s last name using a ruler or straight edge, and at a primary, if the voter is undeclared, using red ink write the three initials of the political party whose ballot the voter is casting in the “party” column. RSA 659:52.

Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID	Barcode
UND	ARON, JOSEPH MICHAEL	<input checked="" type="checkbox"/>	22 Main St	PO BOX 1234 ANYTOWN, NH 00000 - 1234	00	300	[Barcode]
DEM	Clark, Mable Elie	<input type="checkbox"/>	717 Elm St		00	300	[Barcode]
UND	ARON, MABLE ELIE	<input type="checkbox"/>	22 Main St		00	300	[Barcode]
UND	ARON, RONALD	<input type="checkbox"/>	717 Elm St		00	300	[Barcode]
REP	ABLE, CONSTANCE DENISE	<input type="checkbox"/>	22 Bean Rd		00	300	[Barcode]
UND	ARON, GROVER	<input type="checkbox"/>	98 Main St		00	300	[Barcode]

Other changes to a voter’s record, such as a name change reported by a voter at the check-in table, must first be processed with the supervisors of the checklist. The supervisors use the voter registration form, marking the upper right corner to indicate the form is completed for a name change or address update. RSA 654:7.

Best practice for documenting a name change reported at the polling place on election day is as follows:

- The voter checks in at the ballot clerk table and reports a name change. The ballot clerk directs the voter to the supervisors of the checklist table and takes no other action;
- The supervisors ask the voter to complete a new Voter Registration Form, marking in the upper right hand corner that the voter is completing the form due to a name change;
- Supervisors require the voter to provide proof of identity, to verify the validity of the new name. Any form of proof of identity used by a new voter to register is acceptable. As the person has already proven age, citizenship, and domicile to become registered, the

Duties of Inspectors of Election (Ballot Clerks)

voter is not required to provide proof of those qualifications.

- Supervisors send the voter back to the check-in table and either:

(1) Accompany the voter to verify the name change with the ballot clerk; or

(2) Provide the voter with a New Voter Authorization Form and have them complete the form. Add to that document the voter's former name. See sample form at page 341.

- The ballot clerk finds the voter's former name on the checklist and places a checkmark beside that name. The ballot clerk next needs to verify the voter's identity in the same manner as for other voters, a photo ID with the new name is appropriate proof, but any proof accepted for other voters is acceptable. The ballot clerk will then draw a single thin line through the voter's entire prior name on the checklist and write in the voter's new name immediately above the printed name. The new name will not be in its proper alphabetical position on the checklist. The name needs to be entered immediately above the former name to avoid confusion in the count, made after the polls close, of the number of voters marked as voting;

- Do not write the new name where the names of new voters are written at the end of the pages for the first letter of the voter's new last name.
- When election day registrations are counted, name changes for a previously registered voter must not be counted as a new election day registration. Instead count the voter with a name change with other previously registered voters when tallying how many previously registered voters cast a ballot in the election.

written onto the election day checklist. The election day checklist becomes a public document following the election. RSA 654:31-a. The supervisors and clerk may adopt local procedures for collecting this information

Non-public information, such as voter's dates-of-birth or other data that may be missing from voter records may not be

Duties of Inspectors of Election (Ballot Clerks)

CHECKLIST OF RESPONSIBILITIES

BALLOT CLERKS

Before The Election

_____ Participate in training as required by the moderator or city clerk. Receive information on election day duties from the moderator. Moderators or clerks may delegate training to other election officials.

_____ Review the Ballot Clerk Procedure guide, see page 409 for primary elections and page 412 for general elections.

Election Day

_____ Take the oath of office before engaging in the duties of the position.

_____ Process voters in the check-in line and mark the checklist in a consistent and uniform manner.

_____ Enter checkmark in the box to the left of the voter's name immediately upon finding the voter's name on the checklist.

_____ Verify voter identity and address with name on checklist.

_____ If a primary, verify the name of the party in which the voter is registered.

_____ Update voter's domicile address in red ink on the checklist (if applicable).

_____ Update voter's mailing address in red ink on the checklist (if applicable).

_____ When an out-of-state driver license or non-driver ID is used as photo ID, enter the two-letter abbreviation for the state that issued the ID, to the right of the CVA box in red ink.

_____ If the voter does not have photo ID and is presenting a completed Challenged Voter Affidavit ("CVA") with a photograph, religious exemption from a photograph affidavit, or a CVA and New Voter Authorization reporting the photo was taken and attached to the Qualified Voter Affidavit put a check mark in the CVA box on the checklist.

_____ After the voter's address and identity has been verified, at the moment when the voter will be issued a ballot, draw a single thin line through the voter's last name using a ruler or other straight edge.

_____ Other changes to a voter's record, such as a name change reported at the check-in table, must be processed first with the supervisors of the checklist and, before issuing a ballot, ballot clerks must receive confirmation the voter's record is updated from the supervisors.

_____ Record any name change in red ink immediately above the former name (not at the end of the checklist with other new voters).

_____ Provide a voter who meets all of the above requirements with the appropriate ballot. At a primary, issue the voter the ballot for the political party listed on the checklist or if the voter is undeclared, using red ink write in the three letter abbreviation for the party the voter is joining and issue that party ballot.

_____ For communities using electronic ballot counting devices, it is recommended that each voter be provided with a privacy folder in which to carry the marked ballot.

Duties of Inspectors of Election (Ballot Clerks)

_____ For an absentee voter, when the ballot is presented by the moderator, mark "A.V." in red ink beside the voter's name, place a checkmark beside the voter's name, and draw a single thin line through the voter's last name using a ruler or straight edge.

_____ After the polls are closed, work with the clerk to reconcile the voters on the check-in and check-out checklists (hand count towns) and other duties as assigned by the moderator.

After The Election

None

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Moderator To Oversee Voting

Elections “*shall be . . . governed by a moderator, who shall in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote . . . and shall . . . in the presence of the said selectmen, and of the town or city clerk, . . . sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person . . .*” New Hampshire Constitution, Part 2, Article 32.

The moderator is responsible for making certain each election officer understands his or her responsibilities. RSA 659:9. The moderator shall preside at the town meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed, and may prescribe rules of proceeding; but such rules may be altered by the town. RSA 40:4. In cities, the city clerk may establish uniform city wide procedures that must be followed by the ward moderators. RSA 659:9-a.

KEEP ELECTION OFFICIAL CONTACT/POLLING PLACE INFORMATION CURRENT IN ELECTION^{NET}

Provide the clerk with your current contact information to ensure that the Secretary of State and Attorney General can:

- Contact you to address discrepancies

and complaints;

- Send you legal updates; and
- Send you meeting and training invitations.

The clerk shall enter, maintain, and keep up to date election official contact and polling place location/hours in *ElectioNet*. RSA 654:45, VII.

APPOINTMENT OF ADDITIONAL INSPECTORS OF ELECTION

If the moderator requests, the political parties may, between May 15 and July 15 of each even numbered year, appoint an equal number of additional inspectors. After the time for appointment by the parties has expired, the selectmen shall appoint additional inspectors of election to satisfy the moderator’s request. RSA 658:2.

Moderators may also use their authority to appoint assistant moderators and such other election officials as the moderator deems necessary to effectively conduct the election. RSA 658:7.

BALLOT CLERK STAFFING LEVEL

Best practice is to have at least one check-in station for every 600 expected in-person voters. Ideally, staff each check-in station with two ballot clerks, one affiliated with each political party. Consider voter turnout at the most recent similar election and the

Duties of Moderators

comparative number of voters on your checklist to project expected in-person voting.

For example, for a general election in a year when U.S. President is on the ballot, start with the turnout at the last general election where the U.S. President was on the ballot (4 years previous). Adjust the estimate up or down based on the percent change in the number of voters on your checklist. Consider turnout trends at the most recent elections and trends in use of absentee voting. If warranted adjust your projected in-person turnout accordingly.

The objective is to have a sufficient number of check-in stations so that a registered voter will check in and receive a ballot promptly. Each check-in station serves voters whose last name starts with a letter in one section of the alphabet.

A registered voter should not have to wait more than 15 minutes to get a ballot, and most should receive their ballot more quickly.

Polling places with a high volume of voters and historical problems with lines taking the voter more than 15 minutes to obtain a ballot may want to acquire and use electronic poll books in parallel with the paper checklist. When electronic poll books are in use, any voter can check in at any check-in station.

MODERATOR PRO TEM

If the moderator is absent from any election or unable to perform his or her duties, he shall appoint a moderator pro tempore. RSA 658:19.

If the moderator is absent from any meeting or is unable to perform the duties of the office of moderator, a moderator pro tempore shall be appointed by the board of supervisors of the checklist of the town or ward, or by the board of selectmen, if there are no supervisors. RSA 40:3.

SELECTMAN PRO TEM

“If a selectman is absent or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties. If one or more selectmen are absent or unable to perform their duties and have not appointed selectmen pro tem, or if a selectman pro tem is absent or unable to perform his or her duties for all or any part of the day, the moderator is authorized to appoint selectmen pro tem to perform their duties.” RSA 658:21-a:

SUPERVISOR PRO TEM

If more than one member of the supervisors of the Checklist is absent from any election or unable to perform his or her duties, the moderator shall appoint a supervisor pro tempore. RSA 658:21.

At a town election the remaining supervisors fill a supervisor vacancy. If there is only one supervisor, then the moderator fills the positions. RSA 669:64. If only one supervisor is absent, the remaining supervisors appoint an assistant(s) as needed to process election day voter registrations. RSA 658:7.

OTHER ELECTION OFFICIALS

The moderator may appoint an assistant moderator and such other election officials as he or she deems necessary. The town clerk, upon request of the moderator, may appoint one or more assistant town clerks. RSA 658:7.

CENTRAL POLLING PLACE

The moderator elected by the town shall preside over the central polling place. He or she must appoint an assistant moderator, who is domiciled in the town, to run the additional polling place. In a similar manner, the town clerk must appoint an assistant clerk who is domiciled in the town. Assistant moderators and assistant clerks appointed to work at additional polling places in cities must be domiciled in the city ward in which they will serve. RSA 658:11 through RSA 658:14.

Election Day

IN CHARGE OF THE POLLS

The moderator is the chief election officer in charge of the polls. It is his or her responsibility to make certain all election officials are available on the day of the election and that each is familiar with his or her duties for the day. New Hampshire Constitution, Part 2, Article 32; RSA 659:9.

ARRANGEMENT OF THE POLLING PLACE

New Hampshire election laws do not require any specific arrangement of the polling place. The Secretary of State provides examples of polling place layouts for hand-count and ballot counting device towns.

See diagrams starting on page 391. Variations must ensure that there is some public area outside the rail where the public can watch the election. The Right-to-Know law provisions applicable to public meetings apply to an election. RSA 91-A:2. See *Lambert v. Belknap Cty. Convention*, 157 N.H. 375, 379 (2008), noting the exemption for secret ballots at elections in the Right-to-Know law which has a general rule that votes must be taken in open session. The exception would be unnecessary if the law did not otherwise apply to elections.

It is also essential that there is a clear and well-marked path from the parking lot or sidewalk to the accessible entrance and then to the check-in table.

MANDATORY VOTER INSTRUCTION SIGNS

There are currently 8 mandatory voter instruction signs that the moderator must ensure are posted at each polling place. The Secretary of State has implemented a system for numbering the mandatory voter instruction signs. Each sign has an identifying label along the lower edge. The label consists of an identifying sequential number followed by the year the Secretary published the current version. For example: #1-2022 HC General is the "Instructions to Voters" sign to use in

hand count polling places at the general election. "#1" because it is the first of eight mandatory signs. "2022" because this is the most current version the Secretary has published and it was created in 2022. The 2022 Attorney General's Office Polling Place Checklists for the primary and general elections will use these labels to make compliance easier. The Secretary of State sends the required signs to each clerk for each polling place each election cycle and the signs are available in *ElectioNet*. The signs used at the Primary must be preserved for use at the General and subsequent local elections.

POLL OPENING CHECKLIST

Prior to the opening of the polls, the moderator must ensure that:

- 3 copies of the Instructions for Voters (#1-2022) have been posted outside the guardrail. There are different Instructions for the primary and general election. There are also separate versions for hand count versus ballot counting device polling places. RSA 658:28.
- 1 copy of the Instructions for Voters (#1-2022), appropriate for the election and method of counting used, has been posted inside every booth. RSA 658:28.
- Sample ballots have been posted outside the guardrail (8 for the state general election and 8 of each party for the primary, and at least several for local elections). RSA 658:26. State law requires a minimum of 2 sample ballots be posted, however, the law also requires the Secretary of State to provide 10 sample ballots, two for posting in advance of the election, therefore it is recommended that the remaining 8 be posted at the polling place.
 - At least one sample ballot is posted for the general election and one sample ballot for each party is posted at a primary election no higher than 48" for those voters in

Duties of Moderators

wheelchairs. RSA 658:26.

- A notice indicating the time that processing of absentee ballots will start is posted. Start processing absentee ballots at 1:00 p.m. if no notice is posted.
- A sharp pencil or pen is placed in each voting booth. Polling places with ballot counting devices should use only pens.
- Purity of Elections statutes are posted outside the voting area. (#3-2022), (#4-2022), and (#6-2019). RSA 658:29.
- Proof of Voter Identity Instructions are posted outside the guardrail. (#5-2022) RSA 658:29-a.
- Two copies of the checklist to be used at the election are ready and available. Ensure the supervisors of the checklist have certified the checklist as accurate and complete, as of the start of the election, by signing the supervisor's certification section printed on the last page of an official checklist printed from *ElectioNet*.
- If the town/ward uses a ballot counting device, only 1 checklist is required.

Prior to election day do not mark the checklist used at an election in any manner that could be misunderstood as documenting that the person voted. The practice of pre marking absentee voters on the checklist as having voted in advance of the election is improper and is a suspected source of inaccurate checklist markings regarding absentee voters. It is however, permissible to highlight the names of voters who have returned an absentee ballot.

Some election officials report it is beneficial to highlight the names of voters on the

checklist who have returned an absentee ballot. Use a highlighter; do not pre-mark the voter as voting. Typically done in the days just before the election, this also makes it easier to find and mark the voter on election day. It improves the accuracy of marking. Finding a name that is not highlighted will prompt the ballot clerk to double check that he or she has the correct name. Finishing a batch that covers a section of the alphabet and seeing a highlighted name not yet marked as voting will prompt a double check to confirm this is a rejected absentee ballot or to find a checklist marking error.

- Ballot clerks should be instructed to make only those marks on the checklist that are required by law. See Duties of Inspectors of Election at page 136. Non-public information, such as a voter's date-of-birth or other data that may be missing from voter records may not be written onto the election day checklist. The election day checklist becomes a public document following the election, therefore it may not have dates-of-birth or other non-public information written on it.
- Certify that all electronic ballot counting devices and memory cards passed testing requirements and evidence of testing is stored in the front pocket of the canvas bag for the device. Verify that all device seals are intact and that appropriate activity and access logs are recorded, signed and stored in the front pocket of the canvas bag. RSA 656:42. See Electronic Ballot Counting Device Standard Operating Procedures for Testing & Security Seals on page 369. Do not put a ballot counting device into use that has not been properly tested or which is not properly sealed. The moderator must report any broken seals that are not documented in the device activity log to the attorneygeneral, the Secretary of State, the clerk, and the selectmen. RSA 656:42, VIII (d)(5). The ballots must be hand

Duties of Moderators

counted or the town/ward can arrange for the vendor to provide a replacement device. Properly test and seal the replacement device before using.

- The moderator must have all the ballots delivered to him or her from the clerk counted to establish the number of official ballots. Report this number on the moderator's certificate. This ballot inventory will aid the moderator in anticipating the need for the clerk to prepare extra ballots if there is a heavy turnout and is available as a cross reference when checking the accuracy of the ballot counting. This number is also entered on the Moderators Worksheet. (See page 423)
- This pre-election count establishing the number of ballots in the inventory may be done prior to election day, provided the clerk posts a notice and the public has an opportunity to observe. RSA 658:31.
- Fill out the two copies of the moderator's certificate if the election is a state election. One copy is for the moderator's records. One copy must be provided to the clerk to return to the Secretary of State with the Return of Votes.

Officials should be positioned as follows:

- Trained greeters are positioned to meet voters as they enter the polling place. As voters arrive, the greeter will direct them to go to:

(a) The "No Photo ID" table if they have no approved photo ID and need to register or are registered but will need a photo and completed Challenged Voter Affidavit to obtain a ballot;

(b) The supervisors of the checklist if they have photo ID and are not yet registered;

(c) The "Voter Check-in" line serving the letters of the alphabet that includes the first letter of the voter's last name

if they are registered and have a photo ID or a completed Challenged Voter Affidavit.

- A "No Photo ID table" must be equipped with a camera, film, copy of the checklist, ballot clerk instructions, copies of the one page version of sign #5-2022 Voter ID Law – Explanatory Document, RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits. If applicants for voter registration who do not have photo ID will also be sent to this table to have their photo taken, also equip the table with Challenged Voter Affidavits. This will allow all forms necessary to both register and check in to get a ballot to be completed in one stop.
- Ballot clerks sit at the check-in table.
- In hand count towns, position the town or ward clerk, or a deputy clerk/assistant clerk at the checkout table by the ballot box.
- In hand count towns, the moderator or an assistant moderator stands where the ballot box is placed and inserts the ballot handed to him or her by the voter. The moderator must ensure that the voter is casting the correct number of ballots. Typically at a state election, a voter casts one ballot. In towns where ballot counting devices are used, the voter may insert (cast) his or her ballot into the device without the assistance of the moderator. The device is designed to accept only one ballot at a time. Closely monitor the process to provide assistance and ensure that only the proper number of ballots are inserted by any one voter.
- Starting in 2022, the ballot counting device will be programmed to reject a ballot the device reads as having an overvote in any race or for any question. The LCD screen on the device will read "Over Voted Race" and may list a race number. The law provides that the voter be advised that the ballot will be hand

Duties of Moderators

counted and instructed to place the ballot into the side slot in the base of the ballot counting device, where other ballots to be hand counted are inserted.

- Position any challengers appointed by either a party committee or the Attorney General, outside the rail, but in a position where he or she can hear and see each voter as the voter checks in.
- Position the selectmen, supervisors and any other assistants deemed necessary within the polling place. Ideally, have one person routinely checking voting booths to remove electioneering materials left by voters and check that there is a pen/pencil.
- Open the polls punctually at the appointed hour.
- Inspect the ballot box, prior to the first ballot being issued to a voter, and display the box to show any members of the public present that it is empty.
- Prior to printing the zero tape from an electronic ballot counting device, the moderator, in the presence of at least one witness, shall examine all compartments of the ballot collection box, including the primary ballot bin, the diverter (write in) ballot bin, and the side ballot bin (ballots to be hand counted) accessed via the door on the side of the device, to ensure that the ballot collection boxes do not contain any ballots.
- If a ballot counting device is used, the moderator must display the zero tape produced by the device when it is set up and turned on for the election. This tape shows that the starting count for each candidate and question is zero.
- The zero tape must be preserved and kept with the results tape following the election. Do **NOT** seal these tapes into the ballot or absentee voting materials boxes. The Clerk should receive the tapes and keep them with the other election

documents that are **not** sealed into storage after counting.

- Seal the ballot box.
- At polling places where a ballot counting device is used, have a ballot box available to use in the event the device jams or otherwise fails. Prevent lines and delays by having voters cast their marked ballot into the ballot box while the jam is cleared or the device otherwise restored to service. If the device is restored to service, the ballots can be fed into the device. Publicly announce what is occurring and why.
- Publicly announce when the processing of absentee ballots shall begin. This customarily begins at 1 PM. However, if 24- hours notice is provided in two public places, the moderator may announce the beginning of processing absentee ballots at a time no earlier than two hours after the polls open. RSA 659:49.
- The moderator shall designate 2 or more of the inspectors of election, one from each party for each check-in station, to act as ballot clerks for each check-in station. RSA 658:25; RSA 659:23. Other election officials such as assistant moderators or selectmen can also be assigned ballot clerk duties.
- Begin accepting voters.

RSA 658:30 through RSA 658:36.

New Applicants for Voter Registration with No Photo ID

An applicant for registration who does not have photo identification must have a photograph taken at the polling place. Only one photograph shall be taken for the purpose of registering a new voter without a photo ID and providing the voter with a ballot. The photograph must be attached to the Qualified Voter Affidavit and a notation made on the Challenged Voter Affidavit explaining that the photo has been attached to the Qualified Voter Affidavit. RSA 654:12,

III-a, RSA 659:13 If the voter has a religious objection to being photographed and completes an Affidavit of Religious Objection, no photograph is taken. RSA 659:13.

If the applicant is applying at the clerk's office or a supervisor session prior to election day using a qualified voter affidavit to prove identity, the official receiving the application must take the applicant's photo.

On election day, the Supervisors, the Moderator, and the ballot clerks should coordinate how an election day registrant who does not have photo ID will be issued a ballot. Most polling places use a "New Voter Authorization Form" issued by the Supervisors to the Ballot Clerks. The sample form has been revised to include a section where the supervisor can document that a photo has been taken and is attached to the voter registration Qualified Voter Affidavit. Page 321.

The Moderator may want to have:

- The staff at the "No Voter ID – Start Here" table, when the photo is taken for registration, assist the applicant with also completing the Challenged Voter Affidavit that will be required to pick up a ballot and to issue the voter the "Voter ID Law Explanatory Document." All forms would go with the applicant to the Supervisor's table. If successfully registered, the applicant would then bring the completed Challenged Voter Affidavit to the ballot clerks, so the clerk can issue a ballot; Or
- The Supervisors oversee the newly registered voter completing a Challenged Voter Affidavit for no ID and issuing that new voter the Voter ID Law Explanatory Document.

Either option will allow the newly registered voter to check in and obtain a ballot more easily. It will also minimize delays at the checklist check in table.

Ensure that any voter without Photo ID is issued a copy of the one page Voter ID Law

Explanatory Document. This is the one page version of #5-2022, which is posted at the polling place. This document is available in PDF in *ElectioNet* > Help > Instructions.

Managing Exit Polling

No one can obstruct voters as they enter or exit the polling place. No one can electioneer within the polling place. See page 283, which addresses electioneering. Otherwise, there are no specific restrictions on exit polling. The same limits should be placed on persons taking exit polls, girl scouts selling cookies, the flower club bake sale, or any non-election activity that is allowed at the building where voting takes place. The best practice is to require anyone involved in any of these activities to set up outside the railed-in area and outside the usual and customary path into and out of the polling place. If available, the ideal place for such activities is an adjacent room. New Hampshire Constitution, Part 2, Article 32; RSA 659:9; RSA 659:43; RSA 659:44.

Ballot Counting Devices

No check out checklist is required if your polling place uses a ballot counting device. The voter should feed the ballot into the ballot counting device without the moderator directly handling the ballot. RSA 659:23.

The Attorney General's Office reports complaints from voters, particularly in communities where ballots are printed on two sides, that the voter's right to cast a secret ballot is violated when it is necessary to make the marked ballot visible while carrying it from the voting booth to the ballot counting device and while inserting the ballot into the device.

It is recommended that communities using electronic ballot counting devices provide each voter with a privacy folder in which to carry the marked ballot. A properly designed privacy folder looks like a typical manila file folder, and is wider than the ballot, but slightly shorter. When the ballot is placed in the folder the ballot sticks out of the top just

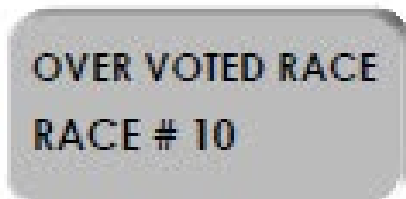
enough to allow the ballot to be fed into the ballot counting device while the voter holds the sides of the privacy folder.

When a privacy folder is used, it is not possible for other voters standing in line, persons standing outside the rail monitoring the voting, election officials, or the moderator to see how the ballot has been marked.

The privacy folder is turned in once the ballot is fed into the ballot counting device. Because the folders can be recycled back to the ballot-issuing table as soon as the voter feeds his or her ballot into the ballot counting device, it is not necessary to have a folder for every ballot printed. Depending on the size of your community, typically one privacy folder for every voting booth will be sufficient.

Ballot Counting Devices – Overvoted Ballots

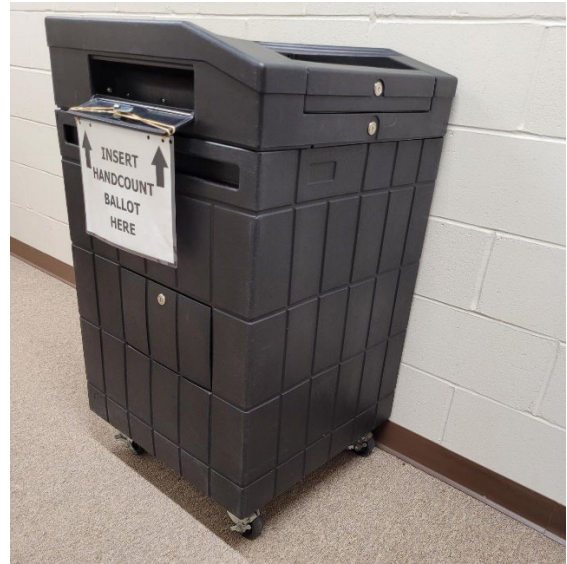
Starting with 2022 elections, the ballot counting device must be set to return to the voter any ballot that the device reads as containing one or more overvotes. LHS will do this for all devices through the memory card; and no action by local election officials is required. The LCD screen on the device will show a message that includes “over voted race” and a race number. HB1163 (2022).



The race number is a sequential number assigned to the races the device is instructed to count. The race number has limited utility for our purposes. If more than one race or question is overvoted, only the first will be reported on the LCD screen.

The statute directs that the voter be instructed to place the ballot in the left side

compartment in the ballot counting device base, where ballots that will be hand counted are placed. RSA 656:42, XI.



The Secretary of State will distribute an “Insert hand count ballots here” sign that should be attached to the device base.

A ballot is overvoted if the ballot, for any race or question, has marks in more ovals than the instruction for that race or question allows. Even small marks in an oval can be read as a vote by the device.

For example, the race for Governor will have an instruction to “Vote for not more than 1.” If the voter fills in the oval for two or more candidates, the device reads this as an overvoted race. When a race is overvoted no candidate receives a vote. With this change to law, the device will reject and return the ballot to the voter. An election official later hand counting this ballot must apply the test of voter intent to determine if the voter chose a single candidate or overvoted by choosing two. In the case of an overvoted race no candidate for that office receives the vote.

If the voter fills in one oval and makes a stray mark on the ballot that crosses through an oval for a different candidate for Governor, prior to this change in law, the device would read this as an overvoted race. Now the device will return the ballot to the voter. Provided it is more likely than

Duties of Moderators

not that the stray mark is not intended as a vote, an election official later hand counting this ballot should count this as a vote for the candidate whose oval is clearly filled in.

Another example, if the voter fills in the oval for a candidate, but then puts a large X through the candidate's name, the oval, and/or writes "No Vote" this should be treated as a cancellation of the vote. Typically the voter fills in the oval for a different candidate, that candidate gets the vote. Prior to this change in law, the device would read a ballot with two ovals filled in as an overvoted race. Now the device will return the ballot to the voter. An election official later hand counting this ballot with a clearly canceled mark will count the ballot as a vote for the candidate with the completed oval that is not canceled.

Statute and a Supreme Court decision require that when hand counting a ballot, if the intent of the voter can be determined, it must be counted as intended by the voter. RSA 659:64. The legal standard is: what, more likely than not, was the voter's intent. Applying the intent of the voter is required, even if the voter did not follow the instructions on how to mark the ballot. See further discussion on page 101.

A ballot that is returned to the voter to be inserted into the hand count bin, is not counted by the device for any race or question on that ballot. That ballot must be fully hand counted.

A moderator or an election official designated by the moderator to insert absentee ballots into a ballot counting device after the checklist has been marked documenting the absentee vote, must put all absentee ballots rejected as an overvote in the side opening where all ballots to be hand counted are inserted.

These ballots will not be included in the total of ballots counted on the ballot counting device results tape. These ballots must be included in the tally of the total

number of hand counted ballots used for the ballot inventory.

An in-person voter who questions the instruction to place the ballot in the side slot for hand counting should be told:

"The device is not able to read your ballot, please insert the ballot in the side pocket. All of your choices will be hand counted after the polls close to voting."

RSA 656:42 directs that the voter be "instructed to place the ballot in an auxiliary compartment to be hand counted by election officials after the polls close."

If, however, the voter requests a new ballot, follow the procedure for a spoiled ballot set out in RSA 659:22.

Use caution when interacting with a voter whose ballot has been returned to the voter due to the device reading an overvote. Even if asked by the voter, best practice is to avoid looking at how the ballot is marked to try to find the overvoted race(s). Even if that voter is willing to give up their right to a secret ballot, others hearing or seeing the interaction may view it as election official misconduct.

The moderator must ensure that these ballots, which must be fully hand counted, are removed from the ballot counting device base and kept separate from ballots that are removed from the write-in bin, and the fully counted ballot bin, located inside the device under the cover. Unlock the side door and retrieve the ballots. Ideally place them in a temporary box labeled "Hand Count – all races and questions must be fully hand counted – these ballots were not counted by the device."



The new law requires the moderator to keep two tallies for overvotes. First the moderator must keep a tally of the overvotes for each race. Second, the moderator must keep a tally of the total number of ballots containing one or more overvotes for any race or question.

- For each election, the number of ballots containing one or more overvoted races or questions; and
- For each office or ballot question, the number of overvotes and undervotes.

RSA 659:73, IV.

The “Return of Votes” will have an additional page on which the number of overvoted ballots must be reported. It will list all the offices and questions voted with a place to record the number of overvotes and the number of undervotes for each race and question.

This public record will allow anyone, for any race, to add the reported votes for each candidate, the reported write-in votes, and

the reported overvotes and undervotes to determine whether this total matches the reported ballots cast and the number of voters marked as voting on the checklist.

As the ballot counting device will reject all ballots it reads as having an overvote, the number of overvoted ballots must be determined during the hand count of all ballots. For the count of overvoted ballots a ballot is an overvoted ballot only if the hand count determines the ballot has one or more overvoted races/questions. A ballot with two or more overvoted races counts as only one overvoted ballot for the purpose of determining the number of overvoted ballots.

During hand counting, if the moderator or designee is able to determine the intent of the voter was to mark only the permitted number of candidates for an office or just “yes” or just “no” for a question, the ballot is NOT an overvoted ballot.

The number of overvoted races or questions must be determined as part of the tallying of hand counted votes for each race or question.

To determine the number of under votes in each race, the moderator must:

- For device counted ballots, print a long results tape and factor in the number of ballots in each race the device reports as blank or undervoted;
- For hand counted ballots have the tally keep track of how many undervotes (all ovals left blank for that race or question or in a vote for some number greater than 1, the number of authorized votes that the voter did not mark) there are in each race and question; and
- Add the results from the tape and hand count tally to determine and report the total number of undervotes for each race and question on the Return of Votes.

See page 176 for a further discussion of the return of votes. The law requires that the

return of votes by delivered to the Secretary of State's office election night. Clerks deliver the election night forms and the one4all tablet to a designated local drop-off site. The New Hampshire State Police pick up and deliver to the state capitol overnight. The return of votes is a public document, subject to disclosure under the Right-to-Know law.

For 2022 elections the Secretary of State's office requests that a copy of the completed moderator's worksheet be sent to us. Either include a copy with the return of votes or e-mail a scan of the worksheet to nhvotes@sos.nh.gov. It will be useful in the canvas and will help us evaluate whether additional guidance/training is warranted. RSA 659:22.

Rejected – Wrong Ballot For Polling Place

In rare circumstances a voter will mark and attempt to cast a ballot that is printed for a different polling place. This can occur if ballots received by a city for one ward are inadvertently used at a different ward or if an absentee voter is sent a ballot for the wrong ward. This can occur if the clerk does not verify that all boxes of ballots received prior to the election contain the correct ballots for that town/city ward. It can also occur if two voters from different towns/wards are together when marking their absentee ballots and mix up the ballots, sending them to the wrong towns.

Absentee voters with a disability may have the assistance of another person when marking their ballot. Otherwise absentee voters ideally exercise their right to a secret ballot and mark their ballot in private. Nonetheless, rare instances of a ballot printed for a different polling place being cast at the voter's polling place have been reported.

If a ballot for a different town or ward is inserted into the ballot counting device, it will be rejected as the timing marks printed on

the ballot will not match the ballot layout for the town/ward.

If the ballot was mistakenly issued to a voter entitled to vote in this polling place and the voter is still present, the ballot must be spoiled and a correct ballot issued to the voter to mark and cast.

If the voter who cast the ballot is unknown or not present (absentee voter), the ballot must be set aside for hand counting the votes on the ballot that are common to both polling places. Similarly, in a hand count polling place, if a wrong ballot is discovered in the hand count process, the ballot nonetheless is counted for the races/questions in which the voter was entitled to vote.

For example all ballots in the state will have the race for Governor. In two out of three election cycles all ballots in the state will have the race for United States Senator. Examine the other races on the ballot, in many cases the ballot marked by the voter and the ballot that should have been issued to and marked by the voter will have the same races with the same candidates. Count the votes marked on the ballot where the races and candidates on the ballots match.

For questions, except for local questions that are specific to one town or city, questions are the same statewide. Count the vote marked on the ballot for all questions that appear on the ballot the voter should have received and marked.

Do not count the vote(s) marked on the ballot if the vote(s) is for a candidate/race or question not listed on the ballot the voter should have received. For those races or questions the marked (wrong) ballot must be counted as an undervote.

The process used to set aside the wrong ballot for the polling place and hand count it must protect the voter's right to a secret ballot.

One4all Accessible Voting System

The Accessible Voting System, named “one4all” is a tablet-based system which is provided by the Secretary of State and which must be available for use by voters.

Place the one4all in the accessible voting booth provided by the Secretary of State for that purpose. This booth is ideally set up near the moderator’s post by the ballot box/ballot counting device, to permit the moderator to readily receive the ballot by hand in a privacy sleeve. Upon receipt of the one4all from the Secretary of State, promptly turn the device on and test it. Contact the Help Desk immediately if there are any problems.

Turn on and test the one4all before the polls open. It is important to follow the steps specified on the instruction sheet. Most problems with starting the device arise from performing the steps out-of-order. If the screen is dark during an election, the system has not been turned on as required. HAVA Section 301. If any problem is experienced turning on or using the one4all call the Election Division help desk promptly: 271-8241. The Help Desk staff in most cases can talk a local official through the steps necessary to put the device into use.

Electronic Poll Books

Some cities and towns have received approval for the limited use of electronic poll books in parallel with the statutory paper checklist process. No town or city may use a parallel system without the approval of the Secretary of State.

Electronic poll books allow a voter to check in at any check in station. There is no need to queue up at the check in designated for the first letter of the voter’s last name. Lines that form at one check in station while other check in stations are idle no longer occur. Election officials report that this parallel use significantly speeds up voter check-in for previously registered voters and is helpful for determining the number of voters who received a ballot at the end of the night.

Under a parallel processing system, election officials must simultaneously fulfill all the requirements of law, as if no electronic poll book is in use. Officials typically do this by having additional appointed assistant election officials who use the check-in receipt issued by the electronic poll book to mark a paper checklist, as if the voter had checked in at the paper checklist. Ballot clerks staffing the electronic poll book issue the voter a ballot and the voter marks and casts that ballot while the second team of election officials receive the receipt and mark the paper checklist. SB 364 amended RSA 652:27, to allow up to 30 minutes lag between the e-poll book recording a voter check-in and the marking of the paper checklist. The marked paper checklist serves as a backup in the event the electronic poll book system fails and as a permanent paper record of who voted.

Cities and towns may use electronic poll books alone for voter registration and check in at a local election only if the electronic poll book program has been recommended for approval by an evaluator approved by the Secretary of State and the system has been approved by the Secretary of State. The use of electronic poll books must follow the requirements issued by the Secretary of State. See further information at: <https://sos.nh.gov/electronic-poll-books/> (Last Visited 8/4/2022) RSA 652:27.

Disqualification Of Officials

If an election official other than the moderator is disqualified, the moderator shall appoint an assistant who shall perform the same duties until the official can properly return. RSA 659:58.

Number Of Voters Within Guardrail

The moderator must ensure that the number of voters within the guardrail who have a ballot, excluding those handing the moderator the ballot or feeding it into the ballot counting device, does not exceed the

number of voting booths and voting screens. RSA 659:16. When the booth(s) equipped for use by voters with disabilities are open, the next voter may use the booth. Do not reserve the booths equipped for use by voters with disabilities exclusively for use by voters with disabilities. All voters may use all booths.

Voters must not be allowed to leave the area enclosed by the guardrail while in possession of a ballot. RSA 659:15. Anyone who knowingly removes an official ballot to outside the guardrail before the close of the polls is guilty of a misdemeanor. RSA 659:38. No one other than election officials, voters casting their ballot(s), or a voter admitted by approval of the moderator to assist another voter, can be admitted within the guardrail. RSA 659:21. Voters may not allow their marked ballot to be seen by any person with the intention of letting it be known how they are about to vote or how they have voted. RSA 659:35.

It has long been prohibited for voters to allow their marked ballot to be seen by any person with the intention of letting it be known how they voted or are about to vote. RSA 659:35.

A new law prohibits taking a photograph within the guardrail of another voter or another voter's ballot. RSA 659:45-a. This, however, does not include what is colloquially known as a "Ballot Selfie" – a photograph taken by a voter of their own marked ballot and posted on the internet. The federal First Circuit Court of Appeals ruled RSA 659:35's ban on ballot selfies was an unconstitutional restriction on core political speech protected by the First Amendment to the United States Constitution. *Rideout v. Gardner*, 838 F.3d 65, 75 (1st Cir. 2016). So long as the voter is not disruptive and does not capture other voters or their marked ballots in the photo, ballot selfies are not prohibited.

Best practice is to encourage ballot selfies to be taken inside a voting booth, so there is no risk of photographing another voter or their

ballot. Photographs and video may be taken from outside the guardrail of general polling place activity. A polling place is subject to the usual requirements of the Right-to-Know law, RSA Chapter 91-A, that audio recording, video recording, and photographs must be allowed. The person recording or photographing may not do so in a disruptive manner.

Voter Requesting Assistance **Marking Ballot**

A voter requiring assistance with marking his or her ballot must first declare to the moderator under oath that he or she cannot mark the ballot without assistance. The moderator must make the voter aware of the option to vote privately and independently using the one4all accessible ballot marking system. If the voter nonetheless prefers assistance, the moderator arranges the assistance. The voter may choose the assistance of an Inspector of Election or a person of the voters choosing. However, the voter may not choose the voter's employer or union official. RSA 659:20; 52 U.S.C §10508. Both the person requesting assistance and the person providing assistance must complete the oath on page 316.

A PERSON WHOSE PHYSICAL DISABILITY PREVENTS THEM FROM SIGNING THEIR NAME

Accept and treat as valid an absentee ballot application or an absentee ballot affidavit envelope that has no signature on the line for the voter's signature but does have the printed name and signature of a person who assisted the voter. Voters with a disability should sign these forms if able, but if not able the signature of the person assisting is sufficient.

If requested, make some accommodation to allow a person with a disability that prevents the voter from signing their name to vote. The best practice would be for the clerk to appoint someone neutral to take the absentee

ballot to the voter, assist the voter as needed, and sign the affidavit envelope as assisting. If the voter signs by using a signature stamp the clerk's appointee should verify that the stamped name is legitimate as the voter's signature. The clerk's appointee should countersign both the application and the affidavit envelope next to the stamped signature or submit a written and notarized statement to accompany the sealed affidavit envelope verifying that the voter himself or herself caused the ballot to be marked and the affidavit to be stamped with the voter's signature. New Hampshire Constitution, Part 1, Article 11.

ASSISTANCE TO PERSONS WHO ARE UNABLE TO COMMUNICATE

Persons with Alzheimer's disease or persons with other disabilities, who are otherwise qualified as voters, must be allowed to vote as long as they are able to vote without assistance.

If the voter needs assistance, he or she must be able to communicate his or her choice on how the ballot should be marked. Any means of communication that a stranger can understand is acceptable. This might include communication such as blinking their eyelids once for yes and twice for no, or tapping a finger once or twice, as the person assisting them reads off the choices.

Do not authorize a family member or friend to mark the ballot based on how the family member or friend believes the voter would have voted had the voter been able to communicate a choice. However, a voter may choose a family member for assistance.

A person with a power of attorney is not allowed to vote for such person or any other voter. The power of attorney does not extend to voting.

Both the voter and the person assisting the voter must take the oath required by law. Page 316. Afford the voter the opportunity to take the oath orally, in writing, or by any other means of communication. If the voter

lacks the capacity to take the oath they are not allowed to vote. RSA 659:20. A moderator considering denying a voter assistance in voting due to the voter's apparent inability to give the required oath or communicate the voter's choices to the person assisting, should first contact the Attorney General's office election line at 1-866-868-3703. Circumstances that legally justify denying a voter with a disability the opportunity to vote with assistance are rare.

Outside the polling place, all voters have a legal right to seek guidance on how to vote and who to vote for from anyone they choose. Many voters with all levels of ability routinely make voting choices based on recommendations from family, friends, or other trusted sources. The law does not prevent this type of influence. The law only requires that the voter seeking to have assistance communicate, in any manner, the need for assistance and then their choices to the person they choose to assist them.

Unforeseen Accessibility Events

RSA 659:20-a, which enables an absentee ballot to be delivered outside the polling place, provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was unable to do so. Do not use this law in lieu of maintaining an accessible polling place. Outside absentee voting should not be used for a voter's convenience in place of voting absentee when a voter can anticipate difficulty getting into an accessible polling place. See page 243 for the law and further discussion.

SERVICE DOGS

The Governor's Commission on Disability advises that under the Americans with Disabilities Act ("ADA"), organizations that serve the public must allow people with disabilities to bring their service dogs into all areas of the facility where the public is normally allowed. When it is not obvious

what service a dog provides, only two questions may be asked:

1. Is the dog required because of a disability?
2. What work or task has the dog been trained to perform?

For further information visit:

<https://www.nh.gov/disability/mediaroom/documents/serdogbromarchtwoone.pdf>

(Last Visited 8/4/2022) or contact the Governor's Commission on Disability at (603) 271-2773.

Spoiled Ballots

A voter who makes a mistake when marking his or her ballot may spoil his/her ballot by taking it to the moderator. Any voter who spoils a ballot(s) may receive a replacement, not exceeding 3 in total, upon returning the spoiled ballot(s) to the moderator. The moderator must write the word "canceled" on the ballot and sign it. **Do not cast the spoiled ballot into the ballot box or ballot counting device. Best practice is to have a large envelope marked "Canceled Ballots" and to place the ballots into that envelope.**

It is important during the counting process and at any recount to be able to clearly identify marked ballots that were spoiled and not cast, and therefore must not be counted. The moderator must hold spoiled ballots aside. Seal spoiled ballots, ideally in the separate envelope marked "canceled ballots," in a box provided by the Secretary of State labeled in red ink "Ballots" along with the other unused ballots at the end of counting. RSA 659:22.

Managing Observers

CHALLENGER VS OBSERVER

A "Challenger" is not an "Observer." A challenger, to hold that status, must have a letter of appointment from one of the political parties, typically signed by the State Chair. While a "Challenger" may also do what an "Observer" does, the "Challenger" has a statutory right to be positioned where he or

she can hear voters check in. "Observers" and other members of the general public have a right to watch the conduct of the election from outside the rail, they do not have other specific statutory rights. Unless the Moderator gives explicit permission, a member of the public (an observer) may not be within six feet of the ballot clerk's check-in table. RSA 659:13-a. Furthermore, while any voter registered to vote in a town or ward has the right to "challenge" another voter, he or she is not recognized as an appointed "Challenger" in the statutes.

"Challengers" rarely actually challenge voters, more often they are tracking who votes, and reporting back to their party's get-out-the-vote efforts. Some are trained to monitor the conduct of the election for the political parties or campaigns.

RIGHT TO OBSERVE

Anyone can come and watch the casting of ballots and the counting of ballots to see for himself or herself whether the election is conducted in accordance with the law.

These individuals can best be understood as "Observers." They have no special status in law and like all members of the public are entitled to silently observe the election as long as they are not disruptive.

At recent elections, political parties and activist groups have sent a variety of individuals to observe the conduct of elections in New Hampshire. Some of these individuals were attorneys or other people who had received some training in the law of elections. They may characterize their effort as "Election Integrity" Or "Voter Protection." Accommodate these individuals as much as is practical without allowing them to disrupt the election. The moderator should tell them that they must not interfere with voters or election officials. If the Observer has a question or concern, he or she must bring that concern to the moderator, by silently or quietly signaling to the moderator or the moderator's designee, who should, as soon as is convenient, meet

with the Observer outside the rail.

Do not allow observers within 5 feet of the voter registration table where the exchange of non-public information between the applicant for registration and the election official receiving the information may be heard or seen. RSA 654:7-c.

Unless specifically authorized by law, no person may stand or sit within 6 feet of the ballot clerk for purposes of observing the check-in of voters without the express permission of the moderator. RSA 659:13-a.

The Attorney General's Office is available on election day to address concerns that these Observers may have with election procedures. If a moderator is unable to easily resolve concerns raised by an Observer, or if an Observer insists that the law is not being followed, consider contacting the Attorney General's Office.

The Attorney General staffs a toll free line with attorneys during each State election day: 1-866-868-3703. These attorneys are prepared to review the law with the moderator or any observer and to address concerns with election law compliance.

Line Management

A registered voter should generally not be required to wait more than 15 minutes to reach the ballot clerk's check-in table. An applicant for registration as a voter should generally not be required to wait more than 30 minutes to reach the voter registration table.

Persistent lines are usually only an issue at the small number of polling places in New Hampshire that have a high volume of voters and then primarily only at high turnout elections.

Research reports from across the United States and anecdotal reports from New Hampshire indicate that the longest lines often occur at the moment when the polling place opens, as voters queue up to vote at the start of the day. At high turnout elections at

high-volume polling places, research suggests that failing to effectively process lines at any point in time will increase the likelihood of lines later during the day. When a long line has formed, do not assume it will resolve itself.

CHECK-IN STATIONS

New Hampshire law does not set minimum standards for the number of check-in stations the way it does for voting booths. Based on anecdotal reports from New Hampshire moderators, time studies done in New Hampshire with small samples, and calculators provided by national research organizations, it is prudent to have at least one check-in station for every expected 600 in person voters.

For high-volume polling places, it is important to break the checklist into sections, allowing more than one voter to check in simultaneously. The first letter of the last name of voters in New Hampshire is not uniformly distributed to all letters of the alphabet. A 2018 analysis by the Secretary of State, verified with analysis of 2022 data, of all active voters in *ElectionNet* shows that almost 10% of New Hampshire Voters' last names start with the letter "M," while less than 2% start with the letter "N." Each check-in station should have a proportionate number of voters, not an equal number of letters of the alphabet. See the chart at page 408 for suggestions on splitting up the checklist.

FLEXIBLE DISTRIBUTION BY ALPHABET

A best practice is to have the checklist used at the check-in table printed with a page break at the end of each letter of the alphabet. Voters arrive at the polling place in patterns unrelated to the first letter of the voter's last name. Moderators or an assistant assigned to monitor the flow through check-in stations should be able to shift one or more letters from one section of the alphabet at a check in station to the adjacent check in station., when one section has a sustained line and the adjacent section does not. For example, if the

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“A-B-C-D-E” check-in position seems to constantly have a line and the “F-G-H-I” section does not, move “E” or “D-E” from the first station to the second. It may be necessary to shift the sections of the check-in checklist back later in the day. Moderators report that this practice is beneficial. This process requires letter signs for check-in stations that are easily changeable.

FLEXIBLE NUMBER OF CHECK-IN STATIONS

The moderator should consider adding check-in stations during the times of day when peak turnout occurs. At most polling places, peak volume is at the opening of the polls and again in the later afternoon/early evening. Consider having additional part-time polling place staff and one or more additional check-in stations just during those busy times of the day.

Limited New Hampshire data is available on when voters arrive to register and vote during election day.

That data suggests that the number of voters arriving during a particular half hour will typically increase by 30% during some periods starting when the polls open, around noon time, and again starting late afternoon. Over several elections, there will likely be half hour periods with spikes to 150% to 200% of the arrival average, which will occur at difficult to predict times of day.

Best practice is to have a baseline minimum of 1 check-in station for every expected 600 voters. Estimate expected voters using the turnout at the most recent similar election (election 4 years previous) adjusted for probable increase in turnout based on the pattern of turnout during the intervening years and the apparent level of interest voters are expressing. For the 2022 general election, consider the statewide pattern of increased turnout at recent elections:

2018 general election experienced a 17% increased turnout compared to 2014 general election.

2020 presidential primary experienced a decreased turnout compared to the most recent presidential primary, but a 46.8% increase from the 2012 presidential primary, which also had an incumbent president on a party ballot.

The 2020 general election experienced a 7.8% increased turnout compared to the 2016 general election.

The recommended minimum of one check-in station for every 600 voters, is based on who voted at the polling place at the most recent similar election, (the election 4 years previous), and is an adjustment from the recommendations made by the Caltech/Massachusetts Institute of Technology, Voting Technology Project, calculators.

The Voting Technology Project publishes toolkits that contain calculators designed to identify the optimum number of check-in stations based on:

- Arrival Rate (total voters/number of hours the polls are open)
- Average Time to vote
- Number of stations (check-in positions for this analysis)
- Maximum wait time target (longest acceptable wait time to start check-in)
- Service Level % (Percent of voter who are able to check-in within the wait time target.

<http://web.mit.edu/vtp/calc1.html>

(Last Visited 8/4/2022). This calculator was used with data from the 60 New Hampshire polling places with the highest number of voters at the 2018 general election. Absentee voters are included because they also must be checked off at the checklist. In a busy polling place the moderator having an absentee voter checked off as voting competes for ballot clerk time with in person voters (i.e. the moderator has to wait for the ballot clerk to

be free from serving in person voters or intersperse marking absentee voters with marking in person voters). The average arrival rate for each was calculated. This analysis used an average time to check-in of 1 minute. No statistics from New Hampshire elections on the time required to check-in were found. The MIT site suggested 1 minute, which is an average time consistent with observations of polling places in New Hampshire at recent elections. The maximum wait time target was set at 10 minutes. This manual recommends local election officials take action if the wait time for registered voters to start the check-in persistently exceeds 15 minutes. MIT cites a federal Presidential Commission recommendation that wait time should not exceed 30 minutes. The service level was set at 98%, that is that 98% of previously registered voters should be able to start the check-in process within 10 minutes. Based on the MIT calculator's recommended number of check-in stations, the number of in-person voters at that election per check-in station was calculated. Among the 60 polling places studied, this number ranged from 535 to 762. The average was one check-in station for every 638 in-person voters who voted at the 2018 general election. The median was one check-in station for every 623 voters.

It is important to note that this analysis is based on averaging, which is an assumption that voters arrive to vote in equal numbers each hour throughout election day. Voters **do not** arrive in equal numbers throughout election day. National research and observations made in New Hampshire indicate that the highest turnout is typically during the late afternoon, evening, and at the moment in time when the polls open in the morning. However, times of day when turnout peaks varies considerably from polling place to polling place. Election day variables like the weather conditions also influence when the highest number of voters arrive to vote during the election day.

Analysis of the time of day when voters cast

ballots in one town which had approximately 6,100 registered voters, with a 4 year average turnout for a general election of 4547 voters, shows turnout over four elections by percent by hour of day to range from 10% voting during the first hour to a low of 6% voting during the noon to 1 PM period. This is consistent with anecdotal reports suggesting that the peak demand for voter check-in occurs at the opening of the polls for one to two hours and again from 4PM through the closing of the polls for polls that close at 7PM.

The best practice of at least one check-in station for every 600 expected in-person voters was set with consideration of the impact of marking absentee voters on the checklist and the reality that there will be spikes and lulls in the rate of arrival throughout election day.

Greeters

Best practice is for the moderator to assign one or more greeters. Position a greeter where voters arrive at your polling place. The greeter should assist those arriving to find the correct starting point. If a line extends outside the room where voting and registration occurs it is important for the greeter to move to wherever the line starts. New arrivals will join the end of the line even when they could go inside directly to their check-in section at the ballot clerk's table or directly to the supervisor's voter registration area.

The voter experience becomes negative and it exacerbates line problems when people needlessly wait in line because they cannot see or do not understand that their destination inside the polling place has little or no line.

Examples include a line of registered voters waiting their turn to check in, a new arrival needs to register, there is no line at the supervisor's voter registration table, but the new arrival waits in line until reaching the check-in table, only to have a ballot clerk send the voter to the registration table.

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Another common problem is that there are lines for some sections of the alphabet, but little or none for others. A new arrival whose last name starts with a letter whose check-in station has no line, waits because the voter does not know it is appropriate to bypass those waiting for access to a different check-in station/section of the alphabet.

A greeter should direct the person to one of three starting points within the polling place:

- The “No Photo ID – Start Here” table if he or she is registered but did not bring approved photo ID or is not registered and will need a photo taken to register; or
- The supervisors of the checklist if he or she is unregistered and does not have a photo ID; or
- The “Voter Check-in” line if he or she is registered and has a photo ID

Most polling places have multiple check-in stations, each serving one section of the alphabet. Help the voter find the correct check-in station for the first letter of the voter’s last name.

The greeter should either carry or have easy access to a checklist to allow the greeter or the voter to examine the checklist to determine whether the person is registered to vote at that polling place. Also consider having a checklist posted in the area where voters wait in line. *ElectionNet* can be used to print a compressed list of registered voters, called the Alpha List. The compressed list requires less space to post and can be carried more easily.

There can be only one check-in checklist that is marked when a voter is issued a ballot and, in hand count towns, one check-out checklist when the voter deposits the ballot. However, additional copies of the checklist may be used for other purposes at the polling place. These copies need not be certified by the supervisors.

Best practice is to swear the greeter in as a pro tem election official to ensure the greeter understands the importance of fulfilling his or her duties in conformance with the law.

Ensure the greeter is trained on the prohibitions on electioneering at the polling place by election officers. “*No election officer shall electioneer while in the performance of his official duties. For the purposes of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this provision shall be guilty of a misdemeanor.*” RSA 659:44. A section providing guidance for greeters starts at page 268

MEASURE LINES TO MANAGE AND ADDRESS COMPLAINTS

Line management experts encourage the use of relatively easy systematic measurements documenting how many people are waiting in line. For polling places with a history of long lines at high turnout elections, use of a volunteer for some minimal record keeping on the number of people waiting at regular intervals can provide moderators with valuable information. Average wait time can be calculated from this data. Accumulating this data over a few elections will provide decision makers with data to assess the need for additional staff for the hours of peak turnout.

Having a systematic record of how many people are in line at regular intervals also will help address complaints. Anecdotal evidence is that severe line problems are rare, but do occur most typically every four years during the general election when the office of President of the United States is on the ballot. Even at those elections only a small number of the state’s polling places experience excessive lines. A record that demonstrates whether the problem of excessive lines occurs and if so whether the lines are long lasting throughout the day versus just when turnout spikes or some problem arises can alleviate public concern when long lines become major news stories.

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Furthermore, the record will be evidence the moderator is proactive. The records will show the moderator is alert for and prepared to address excessive wait times.

PLAN FOR CONTINGENCIES

Excessive lines form at polling places when unpredictable problems arise. While ballot counting device problems are rare in New Hampshire, when a ballot gets jammed in the device or it otherwise stops taking ballots excessive lines too often occur. Prioritize maintaining the flow of voters through the polling place. Officials will be able to feed accumulated ballots through the ballot counting device later in the day.

Have a ballot box on site. As soon as a line of voters waiting to insert their ballot into the device starts to form, promptly put the ballot box into use. While any container suffices, having something that looks like a formal ballot box, that voters will recognize as legitimate, will diminish concern. Anecdotal reports and voter's phone calls to the Secretary of State's Office highlight the concerns that arise when voters are asked to deposit their ballot anywhere other than in the familiar ballot counting device. If you do not have a formal recognizable ballot box, consider adding a sign to any cardboard box put into use.

If you use a ballot box while your ballot counting device is out of service, be very transparent when you feed accumulated marked ballots into the device. Publicly announce to all present that the marked ballots deposited into a ballot box by voters will now be inserted into the ballot counting device.

KEEP EVERYONE AT THE POLLS INFORMED

Public confidence in the legitimacy of elections benefits when those present understand the voting process and all activities at the polling place. Publicly explain what you are doing when something unusual or which may be misunderstood occurs. A

public explanation will preempt protests from observers or public misunderstandings that harm confidence in the fairness of the election.

The prevalent use of social media, taking and distributing video with smart phones, tweeting photos, etc. increases the risk that if someone misunderstands what is occurring, that misinformation will be widely broadcast.

For example, a ballot counting device jams, voters deposit ballots into a ballot box, and now the moderator is inserting those marked ballots into the functioning ballot counting device. Tell all present why you are feeding ballots from a box into the device.

Another common example is when the base under the ballot counting device reaches capacity. Monitor the bins under the device and empty the storage bins whenever they are nearly full. You must move counted ballots into the ballot storage boxes supplied by the Secretary of State. If someone seeing marked ballots being moved into a cardboard box suspects ballot box stuffing or other fraud, that misinformation may be instantly spread far and wide. Make a proactive public announcement. Inform all present about what you are doing and why. The announcement will reduce the risk that someone will send out a false alarm.

Informing and educating those present at the polls about election day procedures enhances the free, fair, and transparent character of New Hampshire's elections.

Challenges

Any voter may have his right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials and challengers appointed in writing by the political party committees or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5. Usually challenges occur at the time the voter is at the check-in table, before being given his or her ballot. No voter or appointed challenger shall challenge a

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person's qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may occur at any point up until the voter deposits the ballot in the ballot box or ballot counting device. Position challengers in the polling place so that they can see and hear each voter as he or she offers to vote, but challengers cannot be within the guardrail. RSA 666:4; RSA 666:5.

A challenge must be for a specific reason. A challenger must complete an "Asserting a Challenge" form, signed under oath. See "Asserting a Challenge" form at page 324.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a Challenged Voter Affidavit. RSA 659:27-a. If the challenge is found to be not well-grounded – the evidence is insufficient to make it more likely than not that the person is not qualified - the voter shall be allowed to vote without completing the Challenged Voter Affidavit. RSA 659:27-32. Challenges to voters are discussed further starting at page 279.

The law makes it a specific felony offense to engage in voter suppression. This includes making a challenge based on information the challenger knows to be false or misleading.

"No person shall engage in voter suppression by knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information. Prohibited acts of voter suppression include:

Challenging another person's right to register to vote or to vote based on information that he or she knows to be false or misleading.

Attempting to induce another person to refrain from registering to vote or from voting by providing

that person with information that he or she knows to be false or misleading.

Attempting to induce another person to refrain from registering to vote or from voting at the proper place or time by providing information that he or she knows to be false or misleading about the date, time, place, or manner of the election.

IV. Whoever violates the provisions of this section or whoever conspires to violate the provisions of this section shall be guilty of a class B felony." RSA 659:40

Absentee Ballots

The moderator shall receive absentee ballots from the clerk prior to the closing of the polls or time set for processing of absentee ballots. RSA 657:23; RSA 659:49.

Absentee ballots delivered through the mail or by a delivery agent shall be received by the town, city, or ward clerk no later than 5:00 on the day of the election. RSA 657:17. The law authorizes only the following to serve as a delivery agent:

- The voter's spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild;
- The administrator or administrator's designee of a nursing home, if the voter is a resident of the nursing home;
- The administrator or administrator's designee of a residential care facility, if the voter is a resident of the residential care facility; or
- A person who assists a voter with a disability with voting absentee and signs his or her name on the affidavit on the line for identifying a person who assisted the voter. This type of delivery agent is limited to delivering no more than 4 absentee ballots in any election.

RSA 657:17. A delivery agent shall sign an Absentee Ballot Return Form when delivering an absentee ballot on election day. RSA 657:17. As a best practice, clerks should

request that delivery agents complete an Absentee Ballot Return Form when delivering absentee ballots to the clerk's office before election day.

Absentee ballots from deployed emergency service workers, which are received at the polls before the polls close to voting shall be processed according to the law and if found otherwise in conformance with law shall be counted. RSA 657:21-a, V.

An absentee ballot completed by a disabled voter who appears at the polling place location but is unable to access the polling place due to disability and votes absentee from outside the polling place on election day shall be processed using the same procedure as any other absentee ballot until the polls close to voting. RSA 659:20-a.

Best Practices For Processing Absentee Ballots On Election Day

Key takeaways are organization and preparation.

PRE-ELECTION DAY:

- Organize returned absentee ballots alphabetically by last name. In cities, also organize by ward.
- Separate returned absentee ballots envelopes that are marked "Not Registered" where the supervisors have not received the applications for absentee voter registration.
- On the final checklist you will use at the election, highlight the names of voters who returned Absentee Ballot envelopes.
- At least 24 hours before the polls open, post the time when your polling location will:
 - a. Cut open the Absentee Ballot outer envelopes without removing the affidavit envelope (the earliest time allowed by law is the time when your poll opens, which is highly recommended)

RSA 659:49-b; and

- b. Process Absentee Ballots (the earliest time allowed by law is 2 hours after the polls open, which is highly recommended) RSA 659:49, I.

ELECTION DAY:

Processing an absentee ballot occurs within the rail in an area chosen by the moderator that will not interfere with in-person voters checking in, using voting booths/screens, and depositing their ballots in the ballot box/ballot counting device. Only opening the inner affidavit envelope, checking, and marking the checklist, which is the final step before casting the ballots, should occur at the check-in table(s).

- Deliver absentee voter registration forms returned by applicants in the outer envelope to the supervisors. Keep the sealed absentee affidavit envelopes and outer envelopes together and set aside to process after the supervisors finish their review of registration applications.
 - a. The supervisors review the voter registration form, absentee registration affidavit, and supporting proof documents, then vote whether to add the applicant to the checklist.
 - b. If the application is approved the voter's name must be added to the checklist in the same manner as an in-person election day registrant.
 - c. The moderator and supervisors should agree to an efficient way for the moderator to be informed of who is added to the checklist and/or when all pending absentee applications have been processed and all approved voters have been added to the checklists.

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- d. If the supervisors deny any applications, notify the moderator. The moderator will reject each applicant's absentee ballot as "not a registered voter."
- Group the Absentee Ballots into manageable batches in sections of the alphabet matched to the sections of the alphabet assigned to each check-in station. You may do this before Election Day.
- The Moderator should staff as many people as necessary to open the outer envelopes of all Absentee Ballots. With the time properly noticed, you can begin opening the outer envelopes when your polling location opens. Train staff to keep the absentee envelopes with ballots inside in the alphabetical groups.
- With the time properly noticed, you can begin to process Absentee Ballots as early as 2 hours after your polling location opens to voting.
- Publicly announce the processing of absentee ballots. Allow appointed party challengers and the public to observe processing from outside the rail in a position where they can hear the moderator's announcement of each voter's name. RSA 659:50.

For each Absentee Ballot:

- Verify the voter's name is on the checklist. At the polls on election day, if an outer envelope is returned without the forms and documents necessary to complete the voter's registration, before rejecting the absentee ballot because the person is not registered, the inner affidavit envelope must be opened to determine if it contains the documents necessary for registration. The ballot must not be removed from the envelope and must remain folded. If the envelope does not contain the missing registration forms or documents, the envelope must be immediately sealed with staples or tape, with the unexamined ballot still inside. The moderator or clerk must write a short explanation on the envelope. Treat the envelope in the same manner as a rejected absentee ballot envelope. RSA 654:13; RSA 657:26.
- At this step, if you have separated out the affidavit envelopes from voters who have also submitted applications for absentee voter registration, it is OK to rely on the clerk's list. You will confirm that the voter is on the checklist at the final step when marking the checklist with a red "A.V."
- Determine if the voter properly executed the affidavit envelope. An affidavit is properly executed if:
 - a. The voter has completed the affidavit and signed it with a legible signature. The absentee ballot affidavit envelope was amended by HB 555 and now does not require the voter to mark the specific circumstance that permits use of an absentee ballot. The voter signs the affidavit which states "One of the following applies to me:".
 - b. The affidavit is signed with an illegible signature, you must assume it is the voter's name; or
 - c. There is no voter signature on the affidavit envelope, but there is a name and signature of a person assisting the voter. You must assume the voter has a disability that prevents the voter from signing his or her name.

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- Reject an absentee ballot based on failure to properly execute the affidavit if:
 - a. There is no signature on the line for the voter's signature and no name or signature on the line for a person assisting the voter; or
 - b. The line for the voter's signature has a clearly legible signature and the name is that of someone other than the voter.
- Unless the voter is a confidential voter, publicly announce the absentee voter's name.
 - a. Receive and process any challenge to the absentee voter. See page 279 for managing a challenge to an absentee voter.
- At most polling places perform these earlier steps one at a time for each absentee ballot envelope, however, if a polling place has a high volume of absentee ballots to process, the moderator may appoint deputy or assistant moderators to simultaneously process batches of absentee ballots.
- If processing a large volume of absentee ballots, have more than one moderator/deputy/assistant assigned to each alphabetical batch processed to this step. The absentee ballot must remain in the inner envelope, kept with the outer envelope until just before the checklist is marked.
- Open the inner envelope so that the affidavit is not destroyed and remove the absentee ballot without unfolding or allowing the ballot to be examined. Confirm the contents of the affidavit envelope is one ballot (except where voters are issued multi-page ballots.) At a primary, confirm the ballot is a ballot for the party with whom the voter is a registered member. For a voter registered undeclared, confirm the ballot is the ballot for the party the voter requested according to the absentee ballot application. Reject the absentee ballot if the voter returned more than the permitted number of ballots (or at a primary returned a ballot from a party different than the voter's registration; or for undeclared voters, returned a ballot different from the party stated on the absentee ballot request form.) If rejected, return the ballot(s) to the envelopes, seal the envelope, and mark the envelope and the clerk's list with the reason for the rejection. A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415.
- Work with the ballot clerk(s) managing the check-in for the voter's names in the alphabetized batch of Absentee Ballots. Determine if the checklist is marked showing the Absentee Voter has already voted in person. Keeping the absentee ballots/envelopes in alphabetical order and using a highlighted checklist will speed-up the process of finding the voter's name.
- If the voter has already voted, return the ballot to the envelope, seal the envelope, mark the affidavit envelope and the clerk's list "rejected voted in person."
- Preserve the rejected absentee ballot, sealed in the inner envelope and kept with the outer envelope with other ballots from the election. Put the rejected absentee ballot envelopes in a larger envelope or box marked "rejected absentee ballots." Seal that

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envelope in the boxes provided by the Secretary of State that are labeled "Absentee Voting Materials" in blue ink. If the quantity requires, put all in a separate box with the blue ink "Absentee Voting Materials" label. Put an X in the box on the label that reads: "All absentee ballot applications and envelopes are enclosed in this ballot box – including all challenged and rejected absentee ballots still contained in their envelopes."

- If the voter has not already voted in person, the ballot clerk must mark the checklist with an "AV" in red ink, make a checkmark in the box for checkmarks, and draw a thin line through the Absentee Voter's last name. At a primary, if the voter is on the checklist as undeclared, write in the "Party" column the three-letter abbreviation for the party whose ballot the voter is casting. Repeat these steps for your entire batch of Absentee Ballots.
 - For absentee ballots that will be cast, separate the inner and outer envelopes from the absentee ballot. Preserve the envelopes from the election in the boxes provided by the Secretary of State, labeled in blue ink "Absentee Voting Materials". RSA 659:52; RSA 659:97; RSA 659:101.
13. If the envelopes contain an "Undeclared Voter Election Day Party Affiliation Change Form," that form must be placed with the forms completed by in-person voters. After the election, the supervisors must enter the change back to undeclared into *ElectioNet*.
- Take the batch of Absentee Ballots to be cast to the ballot box or ballot counting device. Handle the ballots so that no one can see how the voter marked the ballot. Cast the ballot

into the ballot box or ballot counting device. Publicly announce that absentee ballots are being cast to mitigate the risk that an observer may misunderstand and suspect ballot box stuffing.

- Keep the envelopes with the attached absentee ballot application secure until placed into the sealed ballot storage boxes after counting is complete.

Moderators are prohibited from conducting the signature comparison set forth in RSA 659:50, III. The United States District Court for the District of New Hampshire held that RSA 659:50, III is unconstitutional. *Saucedo v. Gardner*, 2018 DNH 160, 335 F. Supp. 3d 202. See: Notice Regarding the Processing of Absentee Ballots on Election Day. *ElectioNet* >Help > Instructions

VERIFICATION OF IN-PERSON ABSENTEE VOTER AT CLERK'S OFFICE.

RSA 657:17-a provides that if a voter returns a completed absentee ballot to the clerk's office in person and either:

- Voluntarily shows the clerk a photo identification that meets the requirements of RSA 659:13 (the requirements for photo identification at the polling place); or
- Voluntarily completes a Challenged Voter Affidavit in the same manner as is required for an election day voter without photo identification

the clerk will mark the envelope and the clerk's list of absentee voters: "voter verified." The clerk's verification of the voter may provide the moderator with helpful information in the event of a challenge to the voter's absentee ballot. RSA 657:7; RSA 657:17-a.

ABSENTEE BALLOT AFFIDAVIT
ENVELOPE

The format of the absentee ballot affidavit envelope was changed to require an applicant to only indicate that one of the listed reasons

for requesting an absentee ballot applies without requiring the voter to identify which reason applies. RSA 657:7, SB31 (2022).

On the absentee ballot application the applicant is still required to identify which listed circumstance allows them to vote by absentee ballot, however, they are no longer required to identify the specific reason on the affidavit envelope they use to return the marked absentee ballot.

ANNOUNCE ABSENTEE VOTER'S NAME

If the name of the voter is on the checklist, and the affidavit is properly executed, the moderator publicly announces the name of the absentee voter during the processing to afford an opportunity for the absentee voter to be challenged.

Do not announce the name of a confidential voter. A confidential voter is one who has requested the clerk or supervisors to treat the voter as confidential because the voter participates in the address confidentiality program under RSA 7:43 or has been granted a domestic violence protection order under RSA 173-B. The moderator shall identify such voters as “confidential voter #1” and “confidential voter #2”, and so forth. RSA 659:50.

If the moderator determines that the absentee ballot will be rejected, the moderator must publicly announce the voter's name and just that the absentee ballot has been rejected. Do not publicly announce the reason for the rejection.

Some “Get Out The Vote” efforts will monitor absentee ballot processing and seek to contact any rejected absentee voters to encourage them to report to the polls in person to vote. Such a voter may vote in person if the ground for rejection was other than being ineligible to vote, i.e. affidavit not signed, no ballot in the envelope, no affidavit envelope. If the rejection was because the supervisors found the voter ineligible to vote, if the voter arrives to vote in-person, the in-person challenge process must be followed.

In accordance with that law, if the voter signs the challenged voter affidavit, allow the voter to vote.

CHALLENGES OF ABSENTEE VOTERS

All absentee ballots are subject to challenge after the moderator publicly announces the name of the absentee voter, except for confidential voters provided for in RSA 7:46 and those who have a valid protection order under RSA 173-B:4. Do not permit a challenge after the ballot is removed from the envelope. RSA 659:51, I.

If the absentee ballot is challenged, the moderator shall write on the envelope containing the ballot the word "challenged," number the ballot and write the name and address of the person making the challenge and the basis of the challenge on the envelope or on a form for that purpose. RSA 659:51, II.

If the ground for the challenge is age, citizenship, or domicile, the supervisors of the checklist must rule whether or not the challenged voter either is qualified or not qualified. If the challenge is based on the reported death of the voter, the supervisors should be consulted, since it is their duty to follow a procedure for striking deceased individuals from the checklist.

The moderator rules on challenges based on all other grounds. If the moderator determines that the challenge is well grounded, the available evidence makes it more likely than not that the voter is not qualified to vote, the envelope is not opened and it is preserved unopened with other cast ballots. If the challenge is not well grounded, that is the available evidence makes it more likely than not that the voter is qualified to vote, the envelope is opened and the reverse side of the ballot is numbered with the same number written on the envelope. Process the ballot in the same manner as an unchallenged absentee ballot. RSA 659:51.

The moderator shall ensure that an “Asserting a Challenge” form (see page 324)

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is completed for all challenged and rejected absentee ballots, including those that are challenged by the moderator, clerk and other election officials. RSA 657:27; RSA 659:27-a; HAVA Section 703.

REJECTED ABSENTEE BALLOTS

If the moderator determines the absentee voter is not entitled to vote, do not open the affidavit envelope. Mark the reason for rejection on the envelope.

A list of the permitted absentee ballot rejection reasons can be found in *ElectioNet* > Help > Instructions and at page 415.

Publicly announce the absentee voter's name and that the absentee ballot is rejected. Do not publicly announce the reason for the rejection. Record next to the name of the absentee voter on the clerk's absentee voter list the word "rejected" and the reason for the rejection. The moderator preserves unopened rejected absentee ballot envelopes using the same retention period as the cast ballots for that election. RSA 659:53. Place rejected absentee ballots in a separate marked envelope/container. Seal that container into a box provided by the Secretary of State labeled in blue ink "Absentee Voting Materials." The envelope/container of rejected absentee ballots can be placed in a box with the other absentee voting materials from that election.

IMMATERIAL DEFECTS

The moderator shall not reject an absentee ballot for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required herein. RSA 659:54. Immaterial defects include, but are not limited to, stray marks on the ballot, a tear in the ballot, a coffee stain, etc.

No absentee ballot that has been electronically transmitted to a UOCAVA voter shall be rejected for any ballot, envelope or affidavit weight, size or color, or any ink, font size, alignment or color. This means that the ballot must be accepted and counted even if the ballot is on paper that is

heavier or lighter than regular ballots, is printed on an odd size of paper or in a different color ink or font. RSA 659:54-a.

Out Of Ballots

The moderator should monitor the voter turnout and request the town or city clerk to prepare additional unofficial ballots if it appears that the polling place will exhaust the supply of official ballots. RSA 659:24; RSA 658:35.

First use any remaining Absentee Ballots as election day ballots. Authenticate unused absentee ballots before using them as election official ballots. Best practice is for the clerk to draw a line through the word "Absentee" on the absentee ballot and then sign or initial the ballot. If the supply of absentee ballots is exhausted, use photocopies of the official ballot. Authenticate these unofficial ballots with the signature or initials of the clerk or a designee prior to issuing the ballots to voters. Authentication distinguishes extra ballots from any fraudulently created ballots added to the cast ballots. Authenticating absentee ballots converted to election day ballots allows matching the number of absentee ballots counted to the record of how many absentee ballots were marked as cast on the checklist during any post-election review.

It is essential that the clerk and the moderator keep an accurate count of the number of absentee or photocopy ballots that are put into use as election day ballots. The total number of ballots used and issued to voters, must be reported to the Secretary of State. The total number of ballots used is an important number, because the moderator uses this number to compare with the total votes cast for particular offices or questions when reconciling the ballot count.

Only authentication marks, typically the signature or initials of the clerk, can be made on these ballots, otherwise, it is a misdemeanor for any election officer to place a mark on any ballot, except when marking a ballot at the direction of a voter with

disabilities, extended hours, marking a spoiled ballot or marking a challenged ballot. RSA 659:36; RSA 659:26-a.

The moderator should make his or her best effort to prevent the use of unofficial ballots from inadvertently compromising the secrecy of how the last few voters marked their ballots. For example, if only one unofficial ballot is used and the people who will be counting know who the last voter was, identifying the unofficial ballot would make it possible to tell how that person voted. When the ballots are examined during hand counting it should not be possible to tell how any voter voted by knowing who used the unofficial ballot. Try to have no less than ten voters use unofficial ballots, even if doing so means a few official ballots are not used prior to starting to use unofficial ballots.

The accessible voting system, the one4all tablet, now prints the voter's choices on an official ballot. The marked ballot is identical to the ballots used by voters who mark their ballot with a pen. The one4all remains a ballot marking system for use by all. Any voter is welcome to use the one4all.

Voting During Extended Hours

RSA 659:26-a provides that if a court orders that the polls are to be kept open for extended hours, the moderator shall cause the ballots cast during those extended hours to be marked with the letters "EH." Mark the ballots before giving them to voters. Position the mark to avoid interfering with the marking or counting of the ballots. Make the mark uniform on each ballot. Mark ballots with offices/questions on one side, on the opposite side.

Cast and count "EH" ballots in the usual manner, but separate and place in a marked envelope/binder apart from the other ballots when stored. In the unlikely event extended hours are ordered, but a court later determines that people should not have been allowed to vote during extended hours, a court can order these ballots retrieved from storage, counted, and the votes cast removed

from the totals for that election. RSA 659:26-a.

Closing The Polls

The moderator shall close the polls to further voting at the hour stated in the warrant or notice, unless a court order extends the hours. Allow all voters who are standing in line or waiting in a line of cars to get parking or into the parking lot to register and/or vote, if they are in either line when the polls close. The moderator must oversee the determination of who is at the end of the line, if one exists. If, at the moment the poll is closed, a voter is crossing a room or a parking lot to join the line, use common sense and a sense of fairness, and treat the voter as being in line. If the polling place parking lot is full and a line of cars is backed up waiting to gain access to parking, it is necessary to determine who is the last voter waiting in the line of cars at the moment when the polls close. Allow that voter and all ahead of him or her to park and get into the polls to vote. Moderators should enlist the assistance of law enforcement to try to prevent waiting lines of cars and if necessary to identify the final voter in line when the polls close.

If the moderator feels it is necessary, notify the Attorney General's Office and Secretary of State in advance of the closing of the polls as soon as you anticipate that there will be a line of cars waiting to gain access to the polling place when the polls are scheduled to close to voting.

The public has a right to observe both voting and counting of ballots. Therefore, do not lock the doors to the polling place as a means of notifying those people who arrived after the polls are officially closed to voting that they cannot join the line of those who were at the polls before closing and are waiting to register and vote. Moderators should plan to have election officers and/or law enforcement officers available to prevent late arrivals from joining the line of those waiting to vote after the official hour for closing the polls has passed.

RETURN OF MATERIALS FROM ADDITIONAL POLLING PLACE

If the moderator does not order that the ballots be counted at the additional polling place as provided in RSA 659:59, the assistant moderator at the closing of the polls shall seal the ballot box containing the cast ballots. Seal the box in the presence of the inspectors of the election. The assistant town clerk assigned to the polling place certifies the sealing of the cast ballots in the ballot box.

CERTIFICATION OF CHECKLIST

After closing the polls at a state election, the moderator and town or ward clerk shall certify on the checklist that it is the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. RSA 659:56. This certification is important if the checklist becomes evidence in a court case.

The checklist printed from *ElectioNet* includes, at the end, a page with statistics on the number of voters as of the printing of the checklist and places for the certification before the election by the supervisors of the checklist and certification by the moderator and clerk after the polls close.

The election night certification by the moderator and clerk is a separate and different certification from the certification by the supervisors of the checklist, which is required before the election. After making the final pre-election additions and removals from the checklist, the supervisors are required to certify two copies of the checklist and file them with the clerk. The clerk then brings and uses those two certified copies at the polling place for the election. RSA 654:29.

Counting Of Votes

RSA 40:4-g provides: “In any vote conducted pursuant to this chapter, every ballot shall be counted if the intent of the voter can be determined, regardless of whether the voter

followed any instructions relative to marking the ballot provided before the vote.” RSA 40:4-g. The New Hampshire Supreme Court has established this standard, as the rule for counting all ballots, most recently in Appeal of McDonough (Ballot Law Comm'n), 149 N.H. 105, 112, (2003). See What Constitutes a Legal Vote at page 101.

The moderator oversees the counting of votes by other election officers, including the selectmen and town clerk.

The moderator discharges other duties relating to the counting of votes. The moderator directs how to set up the voting area for the counting process. No ballot shall be placed within 4 feet of the guard rail during the counting of votes. RSA 659:63. Devise an accurate and easily understandable system for counting ballots, which expedites the process. RSA 659:60. New Hampshire Constitution, Part 2, Article 32.

Absentee ballot processing must be complete before ballot counting starts. RSA 659:61.

The moderator may select volunteers to assist election officers in counting ballots. These volunteers must be voters in the town or ward or 17-year-olds who would be qualified as a voter were they 18 years old. RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. Swear in these volunteers as election officers pro tem. As election officers, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3. Written oaths must be completed and filed with the clerk. RSA 42:1; RSA 42:7; RSA 42:8; RSA 658:4.

Errors occasionally occur during the calculation of vote totals. Errors sometime occur when votes from different counting tables are added together, when totals of hand counted ballots are added to totals on the results tape from device counted ballots, or when results from tally sheets are

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transcribed to the Return of Votes. Counting is often completed by election officers who have been on duty for 10-12 hours prior to the start of counting. Adding checks and balances to the counting process requires additional time and/or personnel, but it will be easier and cheaper than conducting a recount. Counting errors negatively affect the legitimacy of the election process and the public trust in elections.

Moderators are encouraged to consider using one or more techniques for avoiding counting and tabulation errors. See the Moderator's Worksheet on page 423 and the Votes in Contests - Examination of Individual Races spreadsheet on the following pages for techniques various towns and cities use.

In towns using ballot counting devices in party primaries, moderators must order and print out the "long report" tape so that "ballots cast" totals can be obtained for each party. Page 354. RSA 659:73.

To minimize the chance of inadvertent mistakes, moderators are encouraged to use the services of bookkeepers, accountants, math teachers, the town treasurer, or others who work daily with numbers. Have a numbers person reconcile the results on election night. Provide the forms to them in advance to prepare a plan. Ideally, a person with these skills who does not otherwise work the polls or participate in the counting would join the process at the end. This person should compare the votes in each contested race with the tallies of voters and ballots cast.

Ideally the total of the votes for all candidates and write-ins, plus the total number of overvotes (choices in a contest which are given up by a voter when they mark more choices than instructed in the "Vote For Not More Than" instructions on the ballot) and undervotes (choices not made by the voter in a contest on the ballot) should equal the number of ballots used and the number of voters marked on the checklist as voting. **The**

AccuVote results tape will report 0 overvotes because overvoted ballots are returned (rejected) by the device and must be hand counted. The number of overvotes must be determined in the hand counting process. For each race and question the Long Results Tape will report the number of undervotes. Your results are facially invalid if the number of votes cast for candidates (including undervotes, overvotes, and write-in votes) or the total number of yes plus no votes (plus overvotes and undervotes) for a question is greater than the total number of ballots used or the total number of voters checked off as voting. A few extra minutes of checking on election night can easily identify a tallying mistake and avoid both a loss of public confidence in the ballot counting process and the time and expense of a recount.

Moderators must now report the number of overvotes and undervotes for each office on the Return of Votes form. This is a public record. Anticipate that the public, media, campaigns, etc. will use the data on the return of votes to calculate whether the total votes for all candidates, total overvotes, total undervotes, and total write-in votes add up to the reported number of ballots cast and reported number of voters who voted. This reporting requirement makes it easier for anyone to check for a discrepancy in the results.

CHECK THE BALLOT BOX

Prior to reconciling, double check that the ballot box is empty, that there are no uncounted ballots. In a ballot counting device town ensure that the primary bin (fully counted ballots), the diverter ballot bin (ballots with write in votes), both located under the device cover and the side ballot bin accessed via the door on the side of the device base (bin for ballots to be hand counted) do not have any ballots.

Ballot Counting Devices – Long Report Tape

A new law requires the clerk to send a copy of the long tape report from the AccuVote ballot counting device with the Return of Votes to the Secretary of State on election night.

“For a city or town that uses an AccuVote electronic ballot counting device in a state election, the town or ward clerk shall print and forward a paper copy of the long report tape to the secretary of state with the return of votes form and shall keep a paper copy of the long report tape with the paper return of votes form that is retained by the town or city clerk in accordance with paragraph I.” RSA 659:75, II.

Ensure that the ribbon in the ballot counting device prints clearly legible numbers on the paper tape. Always keep a replacement ribbon and an extra roll of paper tape with the device.

Instructions for printing a long tape report are on page 353 of this manual.

Print at least 4 copies of the long results tape.

1 – to be kept by the clerk as a public record;

1 – to be kept by the moderator, to use if questions arise regarding the results;

1 – to send to the Secretary of State with the Return of Votes; and

1- to post as part of the moderator’s public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk’s office.

After printing the first long tape report the device LCD screen will ask whether you want another copy. Press the “yes” key. Best practice is to print a copy for the moderator to keep.

An explanation of the data printed on the Long Report Tape is at page 354.

Challengers Observing Ballot Counting

A challenger is a person appointed by the chairperson of a state political party, who can show the moderator a letter of appointment. Chosen by the political parties, these may be lawyers or volunteers who typically are trained in election procedures.

The law allows the Attorney General to appoint challengers. RSA 666:5. The Attorney General sends representatives of the office to conduct polling place inspections and to support local election officials, but typically does not appoint challengers.

A new law requires that during the counting of ballots and aggregation of counting results a challenger making a request, must be positioned outside the rail, but where the challenger can see and hear the hand-counting of ballots. A challenger’s position must also allow a “line of sight” to the electronic ballot counting device.

Notwithstanding any other provision of law to the contrary, a challenger appointed pursuant to RSA 666:5 shall be assigned by the moderator or other election official presiding at the polling place to such position or positions within the polling place as will enable such challenger to see and hear the hand-counting of ballots for the tabulation of votes, and to maintain a line of sight on any electronic ballot counting device. Nothing in this section shall deprive any other person of the right to observe the hand-counting of ballots for the tabulation of votes as provided by law. RSA 666:5-a.

This new law does not alter the requirement in RSA 659:63, that “No ballot shall be placed within 4 feet of the guardrail during the counting of votes.” Therefore, the right to see and hear the hand counting of ballots does not mean that the observer has the opportunity to see how each ballot is marked as it is counted. The opportunity to see how each ballot is marked and how the tally sheet is being marked is

provided at a recount, but it is not practical at an election night count. It involves the observer being closer than 4 feet or the use of technology to allow viewing of the ballot and tally sheet.

Observers should be provided with instructions on how to alert the moderator if the observer believes that ballots are not being accurately counted or otherwise has concerns with counting. There is no authority nor mechanism for an observer to protest how a particular ballot is being counted. Unless the moderator concludes the counting was not being done properly and directs further counting to correct process errors, the observer's only option is to seek to have a candidate request a recount.

To satisfy the requirements of this law, moderators need to ensure the layout of the area within the guardrail where ballot counting occurs is sufficiently close, but no closer than 4 feet from the rail, so that observers can see and hear the hand counting. At the same time, the ballot counting device must be in the "line of sight" from the designated spot outside the rail for the observer(s). We understand "line of sight" in this context to mean an unobstructed view. For example the hand counting table and staff cannot block the observer's ability to see the ballot counting device. Line of sight does not require any specific proximity. The observer should be able to see enough of the ballot counting device to see the printing of the results tapes and allow observing the emptying of the different bins under the device where ballots are stored. If the usual setup does not satisfy this new requirement, the moderator should consider moving the hand count table(s), the ballot counting device, or the rail. Either or any combination can be done to achieve a compliant setup.

Keep in mind the new provision in the disqualification statute allows election officials who are disqualified from handling or counting marked ballots to do other work within the rail, provided they are outside the

area designated for ballot counting, results aggregation, and reconciliation.

DECLARING THE RESULTS

Publicly declare the results of the election. Announce write-in votes, even votes for fictitious or historical figures, in some manner. Some voters will test the ballot counting process by writing in a name they believe no one else would write in, and then check to see if election officials count that vote. Posting a copy of the worksheet documenting scattered write-in votes is sufficient if there are too many write-ins with few votes to announce orally. The New Hampshire Constitution, Part 2, Article 32; explicitly requires the moderator to "*make a public declaration thereof, with the name of every person voted for, and the number of votes for each person.*" RSA 659:70.

The availability of the number of overvotes and undervotes for each office and question allows anyone to conduct their own reconciliation, to test whether the results appear to be valid. It is essential that all write-in votes be included in the disclosure of the results. Otherwise, the total of all votes, including write-in votes, overvotes, and undervotes will not match the number of ballots cast nor the number of voters marked on the checklist as voting.

If a town or ward comprises an entire Representative district, the moderator shall declare the state representative(s) elect. RSA 659:82. The Secretary of State declares the state representatives elect for multi-ward or multi- town districts.

Across the United States, one area of election administration that is subject to public scrutiny and criticism is the process by which numbers are transmitted from polling place officials to the state officials who determine the official results of regional and statewide contests. One way to reassure suspicious voters is to make the results from each polling place easily accessible at the polling place and locally, so that the voters can compare what local election officials say the

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results are with the results reported by the Secretary of State. Moderators should post a copy of the written results at the polling place on election night. The clerk should post a copy at the clerk's office or keep them available to the public at his or her office.

REPORTING THE RESULTS

After counting all state election ballots, the moderator must provide the clerk the official election results.

The town or ward clerk must report the results on the Return of Votes forms provided by the Secretary of State by 8 AM on the day following the state election. Subject to rules established by the city clerk, the ward clerk should send copies to the city clerk. Subject to the request of the Secretary of State, complete Names on Checklist (Primary worksheet page , Report page 426, General worksheet 427, General Report 428) and Moderators Worksheet(s) page 423, within 48 hours after the closing of the polls. Many moderators find it easiest to complete these reports on election night. The city or town clerk retains a copy of the Return of Votes, Names on Checklist, Moderator's Certificate, Moderator's Worksheet, as well as any tally sheets and reconciliation worksheets used for the election. Moderators should keep copies of these documents to answer any questions following the election. RSA 652:14-c; RSA 659:73; RSA 659:75.

At polling places that use a ballot counting device, both the zero tape run before the polls open to voting and the results "long report" tape printed after the polls close to voting, must be kept with the moderator's work sheets, by the clerk. Do not seal the zero and long report results tape into the boxes with the ballots. A copy of the long results tape must be sent to the Secretary of State with the return of votes.

The supervisors certify the marked checklist before the election and the clerk and moderator certify the marked checklist after the election. The marked checklist is submitted to the clerk, who shall allow the

supervisors of the checklist/registrars to scan barcodes of those who voted, return voters to undeclared after a primary, enter new voter registrations, record challenged voter affidavits, absentee ballots, etc. RSA 654:29; RSA 659:56; RSA 659:57; RSA 659:73; RSA 659:74; RSA 659:102.

SEALING AND CERTIFYING BALLOTS

Seal ballots into storage boxes immediately after the votes at a state election have been tabulated, the results have been announced, and the return prepared. The moderator or his or her designee, in the presence of the selectmen or their designee, shall place the:

- Cast (counted) ballots;
- Cancelled (Spoiled) ballots;
- Uncast (ballots not used) ballots; and
- Ballots from any additional polling places;

in the box(es) provided by the Secretary of State labeled in red ink "Ballots."

They shall place the:

- Successfully challenged absentee ballots;
- The empty absentee ballot affidavit and mailing envelopes, with the absentee ballot application attached;

in the box(es) supplied by the Secretary of State labeled in blue ink "Absentee Voting Materials." RSA 659:97.

At a primary, the best practice is to store the cast ballots from one party separately from the cast ballots from the other party. Note on the seal which party's ballots are in each box.

The moderator or his or her designee shall enter the following information on the label for resealing ballots in the appropriate place: the number of ballots cast, canceled and uncast, and the moderator and selectmen, or their designees, shall endorse the sealer. RSA 659:95; RSA 659:97. The law and the label call for the number of each type of ballot

placed in the box to be reported on the label. This requires a hand count of the ballots going into each box. A hand count should be done, but if it is not, ensure that the number written on the label reflects what is known about the contents of the box. For example if all the cast ballots are put into three boxes without counting how many are in each box, the label should clearly report that total number placed in boxes __, __, and __ filling in the box numbers placed on all of the boxes with cast ballots. Example: “2368 cast ballots in boxes 1, 2, and 3.” The label is not designed for this type of entry, so it will be necessary to use the margin to make the entry on the label accurate.

The moderator seals the container(s) in public. Use the following steps to seal a cardboard box of ballots for storage:

1. Seal the flaps closed and secure all sides of the box with filament tape. Box bottoms or sides only secured by the original glue sometimes break open during transport and storage, circle the entire box with tape on two dimensions.
2. Complete the information on the “Label for Resealing Ballots.” See page 396 for an example of this label. Affix this label onto the box over the flaps.
3. Using red tamper-evident tape, wrap one strip of this red tape completely around the box, covering an edge of the resealing label. Put a second strip of tape completely around the box at a right angle to the first strip.
 - This security tape changes appearance if it is pulled loose after being sealed, creating evidence that the box has been tampered with.
4. Stick a short strip of the red tamper evident tape over each edge of the “This Package Contains” election night seal.

Do NOT seal the copy of the Return of Votes, ballot counting device long results tape, worksheets, tally sheets, absentee ballot lists, and Challenged Voter Affidavits in the secured ballot boxes. These documents may be necessary to resolve tabulation questions following election night and investigations of voters who did not present voter IDs. Sealing tally sheets and working papers from the ballot count in the box of ballots prevents a review of the count of votes, since the ballot box cannot be accessed without:

- a. A recount;
- b. A court order; or
- c. A request of the Secretary of State and the presence of a state election official when opening the box. RSA 659:75.

Ambiguities or apparent errors in the Return of Votes and Ballots Cast figures discovered by the Secretary of State following the election can often be quickly resolved with a high degree of confidence if the moderator and clerk can review their tally sheets and working papers used to reach the numbers reported on the Return of Votes.

DELIVERY OF BALLOTS TO CLERK

The moderator, or his or her designee, and the selectmen, or their designee, after having publicly sealed and certified the state election ballots, shall deliver the sealed containers to the town or city clerk, or his or her designee. In their presence, the clerk shall enter the time and his or her signature on the sealer. RSA 659:98.

The moderator, or his or her designee, shall deliver the Challenged Voter Affidavits and Asserting a Challenge forms to the town or city clerk, or his or her designee. RSA 659:13; RSA 659:103; HAVA Section 703.

Reporting Wrongful Voting & Election Violations

The moderator must report any violations of RSA 659:34 through RSA 659:49 to the Attorney General’s Office. RSA 659:45.

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Place a phone call to 1-866-868-3703 (toll free); (603) 271-3658. The Attorney General will usually request a written statement or report. Mail the report to the Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301-6397. At State elections, the Attorney General's Office generally has several attorneys and investigators working around the State who are available to respond on short notice to a polling place. It is often much easier to address concerns with voting procedures or questions about a voter's qualifications on election day while the polls are open and the person is present than to address the issue after election day.

OPTIONAL COUNTING AT ADDITIONAL POLLING PLACE

The moderator may, in writing, order the assistant moderator to process absentee ballots and to count votes cast at the additional polling place in the presence of and with the assistance of the assistant town clerk and election officers assigned to that polling place, in the same manner as at the central polling place. After absentee ballots are processed and counting is complete, the assistant moderator shall place the:

- Counted ballots;
- Duplicate checklists used at the additional polling place;
- Absentee envelopes;
- Spoiled ballots; and
- Unused ballots

in the ballot box and shall seal it. The assistant town clerk shall certify the same.

The assistant moderator with the assistant town clerk shall immediately deliver the ballot box with its contents and a written report of the count signed by both to the moderator at the central polling place. RSA 659:59.

The moderators should direct additional polling places that use ballot counting

devices to produce the long tape reporting the totals cast at that polling place and then "end" the election on the device before moving the device, ballots, and the tape to the central polling place. The assistant moderator must report the results at the additional polling place. More than one election official seals and transports the ballots. At partisan elections, allow at least one election officer affiliated with each party to serve as witness to the sealing and transportation.

At the central polling place, the elected moderator will oversee tallying of the votes from all polling places and will announce the aggregated results.

Local Recounts

RECOUNT (TOWN ELECTION)

Requests for recounts are filed with the clerk, who will schedule the recount. The moderator along with the town clerk and board of selectmen constitute the board of recount and shall recount the ballots. If one of the board of recount is a candidate for the office being recounted, the moderator shall appoint an assistant to serve in the same capacity. RSA 669:32. The statute does not explicitly authorize the moderator to appoint other election officers to assist the board of recount, however, it is common practice for moderators to do so.

RECOUNT (SCHOOL ELECTION)

The board of recount in a school district election is made up of the school district clerk, the school district moderator, and the members of the school board. RSA 671:32, II. As with town recounts it is common for the moderator to appoint election officials to assist the board of recount.

RECOUNT PROCEDURES

The Board of Recount has responsibility for determining the process for conducting the recount. The Secretary of State has adopted rules of procedure for recounts. Boards of recount may wish to consider adopting

similar rules. See Model Rules at page 433.

ADVANCE WRITTEN NOTICE TO CANDIDATES OF RECOUNT

Send every candidate for the office(s) that is going to be recounted and each of the persons who have requested the recount of a question a written notice.

The clerk, ideally in coordination with the board of recount, sets the date, time, and location for the recount.

Include in the notice a written description of the process the board of recount plans to use to conduct the recount. If the process is going to involve the use of more than one team of officials counting, the notice should state the maximum number of teams anticipated. It should advise that the candidates or persons requesting the recount must have a sufficient number of assistant observers present to observe each counting team. If they fail to have an observer for each team, they waive the opportunity to do so. The notice should state that each observer will be afforded an opportunity to see, but not touch or handle, each ballot. If the observer wishes to protest how the recount team is counting a particular ballot he or she needs to do so at the moment in time when that ballot is being counted by the team. That will be the one and only opportunity the observer will have to protest how the board counts that ballot.

Adopt a system to identify each ballot that any observer protests. Typically, these ballots are segregated into a separate pile at each counting location.

Before totaling the team tallies, the board of recount should rule on each protested ballot. By ruling on protested ballots before the team tallies are totaled the decision on each protested ballot is made before it is known whether the decision will affect the outcome of the election. This reinforces the neutrality of the recount process.

Determine the intent of the voter for each protested ballot by a majority vote of the

members of the board of recount. RSA 659:64. If the majority of the board of recount determines that a ballot is to be counted as a vote for a particular candidate, that vote, even if the ballot is further protested, must be added to that candidate's total votes.

Give the candidates or the persons requesting the recount of a question an opportunity to protest the decision of the board of recount. When there is a protest of the board's decision, the board must adopt some system to document how it ruled on each ballot. Include the vote from that ballot, as determined by the board of recount, in the total of votes credited to the candidate. Courts will typically examine only the ballots protested at this second step when hearing an appeal of the recount.

The system used to document the board's decision and to identify the ballot as a protested ballot must not add marks to the ballot or alter the ballot in any way that might affect the ability of a court on appeal to examine the marks made on the ballot by the voter.

One approach is to staple a sequentially numbered piece of paper to each protested ballot, writing on the paper the board's decision. Write on the paper either the name of the candidate(s) who is credited with a vote from the ballot or the word "yes" if the ballot is to be credited as a yes vote on a question or the word "no" if the ballot is to be credited as a no vote on a question.

Appeals from decisions made by a board of recount typically are limited to disputing the Board's decision on how it counted particular ballots.

Preserve protested ballots in the same manner as the other ballots from the election, but segregated in a separate sealed container so that the clerk can produce specific protested ballots for review by the court hearing the appeal. Parties to the appeal will likely want to obtain copies of the protested ballots in advance of the hearing on the

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appeal. The clerk must have at least one witness present whenever opening the segregated sealed container of protested ballots to make copies for the parties. Best practice is to give the parties notice of a date and time when this will occur, allowing all interested parties to observe the process. After making copies, the protested ballots must be re-sealed into the segregated container and preserved.

RULES OF ORDER

Moderators control election and meeting day activities. Some moderators find it helpful to adopt rules of order.

Established systems of rules such as Robert's Rules of Order generally are too complex and afford too much opportunity for individuals with extensive knowledge of the rules to gain unfair advantage. A simple set of rules may be more helpful. Some moderators announce the rules and post them at the meeting place. Include a notice in the rules that voters may move to overturn any rule or procedural decision made by the moderator.

Provide voters with notice that if they believe the moderator has made a procedural error, is cutting off debate prematurely, or has made a mistake in declaring a result the voter needs to immediately put the moderator on notice through a motion to overrule the moderator or in the case of the declaration of a vote, a motion for a secret paper ballot vote.

When the Attorney General's office reviews complaints of procedural errors by a moderator it shows additional deference when the record of the meeting establishes that the complaining party had notice of the right to move to overrule the moderator or for a paper ballot vote on a question.

Postponement Of Municipal Elections

RSA 669:1 as amended by SB 104 (2019) authorizes a Moderator to postpone a municipal election under limited circumstances:

- National Weather Service issues a weather event warning for election day, which the Moderator reasonably believes may cause the roads to be hazardous or unsafe; or
- Accident, fire, natural disaster, or other emergency which may render site/building to be used for the election unsafe

The authorization in RSA 669:1 is also repeated in RSA 40:4. The municipal election is referred to in the statute as the "official ballot voting day."

"(b) In the event of a weather or other emergency as described in RSA 669:1 that occurs on or before the date of an official ballot voting day as defined in RSA 652:16-g, which the moderator reasonably believes may cause the roads to be hazardous or unsafe, the moderator may postpone the session in accordance with RSA 669:1 and RSA 669:1-a."

To the extent practical, the Moderator shall consult with:

- Governing body;
- Clerk;
- Police, Fire, Road Agent, and/or Emergency Management Director as appropriate.

The Moderator shall document the decision to postpone the election and shall notify the Secretary of State by phone or e-mail within 2 hours of making the decision. If the notification is on behalf of more than one town (multi-town school district, etc.) include information on all towns being postponed.

(603) 271-3242

Elections@sos.nh.gov

(603) 271-8241

NHVotes@sos.nh.gov

When a ballot to be used at an election which has been postponed contains questions that are to be voted on simultaneously by more than one town, such as those relating to village, school, or water districts, the

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postponement of an election shall apply to all towns voting on that issue at the election.

The moderators of the towns involved, after consultation with respective town officials, shall communicate with each other to reach a consensus on the postponement. In such instances, one of the moderators shall be selected to document the communications and notify the secretary of state.

If a consensus cannot be reached, the election shall be postponed if a majority of the moderators vote to postpone.

Town Moderators shall coordinate postponing School District and/or Village District Elections held in conjunction with a town election. RSA 670:1-a; RSA 671:22-a.

The decision to postpone shall be made on the day immediately prior to the election at any time before 6:00 p.m. This restriction applies to weather related postponement. If the town hall burns down or some similar catastrophe occurs shortly before election day and time is needed to arrange a substitute facility, earlier postponement and notice to voters is appropriate.

If a special state election is scheduled for the date of the town election, this section shall not apply (the election may not be postponed). There is no statutory authority to postpone a state election.

The statute prescribes that:

- Postponed election are to be held on the Tuesday 2 weeks following the original date.
- All related deadlines are extended the same 2 weeks.
- No additional session of the Supervisors before the postponed election is required.
- If the postponed election follows the business meeting, the Moderator's term is extended through the completion of all election day duties or until the qualification of a

successor, whichever is later.

- School district elections coordinated with or held in conjunction with the town election are subject to this section.

The Moderator and Governing body shall employ all reasonable means to notify voters:

- Of the postponement;
- The new date for the election;
- How to obtain an absentee ballot if the voter qualifies to vote absentee on the new election date.

If practical, post notices at the:

- Location of the election;
- Municipal offices;
- Website of each unit of government (town(s), school(s), village district, whose election is postponed.

To the extent practicable, the town clerk may decide to be at the location of the originally scheduled election, during what would have been normal polling hours, to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned ballots.

The town clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken an oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.

The ballots prepared for the original date are to be used at the postponed election, notwithstanding that they will have the earlier date on them.

The clerk shall include with all absentee ballots issued on or after the original date of the election a notice explaining the deadline for returning absentee ballots for all absentee ballots issued for the postponed election.

The deadlines are:

- 5 PM on the day before the

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postponed election (Clerk's office must be open from at least 3PM to 5PM); or

- If delivered by a delivery agent to the clerk at the polls on the new election day, by 5PM.

If otherwise properly submitted and the voter has not voted in person, count:

- All absentee ballots submitted that would have been counted on the date of the original election,
- All absentee ballots submitted for the original date of the election which arrive after that date, but before 5:00 p.m. on the date of the postponed election; and
- All absentee ballots submitted to be counted at the postponed election.

If the voter has not voted in person before absentee ballots are cast, count an absentee ballot submitted for the original election date even though the voter is present in town/able to appear at the polls at the rescheduled election. RSA 669:1-a, IX.

POSTPONEMENT OF MUNICIPAL ANNUAL BUSINESS MEETING

The moderator has had and continues to have authority to postpone the business meeting.

"II. (a) If the National Weather Service issues a weather event warning applicable to a town on the date of a deliberative session or business session of a town meeting, which the moderator reasonably believes may cause the roads to be hazardous or unsafe, the moderator may, up to 2 hours but not more than 48 hours prior to the scheduled session, postpone and reschedule the session of the meeting to another reasonable date, place, and time certain. If an accident, natural disaster, or other emergency occurs which the moderator reasonably believes may render use of the meeting location unsafe, the moderator may, at any time prior to the scheduled deliberative or business session, postpone and reschedule the session to a date,

place, and time certain." RSA 40:4.

To the extent practical, prior to making a decision to postpone, the moderator shall consult with the governing body, the clerk, and as appropriate for the circumstances the police chief, the fire chief, the road agent, and the local emergency management director. The moderator shall employ whatever means are available to inform citizens of the postponement and the rescheduled date or dates. RSA 40:4.

For Elections and Meetings, for the purpose of determining compliance with statutory deadlines use the date of the original meeting *"(c) The date originally scheduled shall continue to be deemed the deliberative session, business session, or official ballot voting day of the meeting for purposes of satisfying statutory meeting date requirements; provided, that in towns or districts that have adopted RSA 40:13, the postponement shall not delay the deliberative session more than 72 hours."* RSA 40:4.

The second session of SB2 town meetings, the election, may also be postponed in accordance with RSA 40:4, II(b) and RSA 669:1.

City elections, governed by RSA 44:11, may be postponed in the manner provided for in RSA 669:1, except that the authority of the moderator is vested in the City Clerk.

The statute defines the day generally understood as "election" day as: *"Official ballot voting day."* Both terms mean the day on which voters in a town vote on the election of officers or other questions authorized by law to be voted on by official ballot, or both, in compliance with the procedures for elections for the partisan official ballot system as set forth in RSA 669:12 or the nonpartisan official ballot system as set forth in RSA 669:19 through RSA 669:22, RSA 670:5 through RSA 670:7, and RSA 671:20 through RSA 671:30, including all requirements pertaining to absentee voting, the polling place, and polling hours."

VOTER REGISTRATION DURING THE TWO
WEEK POSTPONEMENT

During the two week postponement period a clerk may not take in-person voter registration applications. The period during which applicants cannot register in person with the clerk is one of the deadlines that are extended for two weeks when a decision is made to postpone the election.

A person who will be voting absentee at the postponed election may, however, apply for absentee voter registration during the two week period. This typically would be a person who planned to register and vote at the polls on the date of the scheduled election. The person will be absent on the date of the postponed election. The clerk must retain the completed absentee voter registration package and provide it to the supervisors on election day. The supervisors treat this as an election day registration. The absentee ballot is counted if the supervisors approve the application.

CHECKLIST OF RESPONSIBILITIES

MODERATOR

Before The Election

- _____ Take the oath of office before engaging in the duties of the position.
- _____ Provide the clerk with your contact information and update the clerk with any changes.
- _____ Appoint additional election officials, as needed, including a greeter (recommended for high volume polling stations).
- _____ Work with the selectmen, clerk, and other election officials to develop a continuity of operations plan (COOP) which anticipates common emergencies and effective local responses. See model COOP plan at page 293.
- _____ Work with the selectmen and other election officials to ensure that the polling place is properly arranged and accessible.
- _____ The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office to all election officials.

ELECTION DAY Preside over the central polling place as chief election officer (in towns). In cities the moderator is a ward official – the City Clerk has authority to set citywide policies and procedures.

A. Prior to Opening the Polls:

- _____ Ensure that 3 copies of the Instructions for Voters have been posted outside the guardrail. (#1-2022). There are different posters for the Primary versus the General Election. There are different posters for hand count polling places versus ballot counting device polling places. Select the correct version for your polling place and election.
- _____ Ensure that 1 copy of the Instructions for Voters has been posted inside every voting booth. (#1-2022)
- _____ Ensure that sample ballots have been posted outside the guardrail (8 for the state general election and 8 of each party for the primary, and a similar number for local elections), at least one must be posted no higher than 48" for voters in wheelchairs.
- _____ Ensure that a notice indicating the time for processing absentee ballots is posted.
- _____ Ensure that an alpha voter list (checklist printed from *ElectionNet* that does not have bar codes) is available to use for accessible voting on election day.
- _____ Ensure that an alpha voter list (checklist printed from *ElectionNet* that does not have bar codes) is available for the Greeter to use.
- _____ Ensure that a sharp pencil or pen has been placed in each voting booth.
- _____ Ensure that the 8 mandatory posters, including Purity of Elections statutes, are posted outside the voting area.
- _____ Ensure that two duplicate checklists to be used at the election are ready and available (only one needed if the town/ward uses a ballot counting device).
- _____ Instruct ballot clerks to make only marks on the checklist that are required by law. (Non-public information, such as dates of-birth or other data that may be missing from voter records

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may not be written on the checklist.)

_____ It is recommended that each voter be provided with a privacy folder in which to carry the marked ballot. The use of ballots with offices on both sides will make it harder for voters to carry the ballot to the ballot box/ballot counting device without displaying how they voted.

_____ If using a ballot counting device: certify that all electronic ballot counting devices and memory cards have passed testing requirements and ensure evidence of testing is in the front pocket of the canvas bag for the device.

_____ If using a ballot counting device: verify that all device seals are intact and that appropriate activity and access logs are recorded, signed and stored in the front pocket of the canvas bag.

_____ Count all the ballots delivered from the clerk, to establish the number of official ballots and record on the Moderator's Certificate. (This may be done before election day, RSA 658:31.)

_____ Position all election officials: greeters (if used); ballot clerks at check-in table; clerk/deputy/assistant at check-out table in hand count towns; moderator or designee near ballot box or ballot counting device; and selectmen, supervisors and any other assistants where deemed necessary within the polling place.

_____ Ensure that a "No Photo ID - Start Here table" is equipped with a camera, film, copy of the checklist, ballot clerk instructions, copies the one page version of sign #5-2019, Voter ID Law – Explanatory Document, RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits.

_____ Position any challengers appointed by either a party committee outside the rail, but in a position where he or she can hear and see each voter as the voter checks in.

_____ Inspect the ballot box, prior to the first ballot being issued to a voter, and show any members of the public present that it is empty. If a ballot counting device is used, the moderator should print and display the zero tape produced by the device when it is set up and turned on for the election. Best practice is to print a copy to preserve and another copy to post.

_____ Seal the ballot box.

_____ Place the one4all Accessible Voting System in the accessible voting booth, ideally near the moderator's post by the ballot box/ballot counting device. Ensure it is turned on and tested before the polls open.

_____ Administer the oath of office to all election officials who have not previously been sworn in. Ensure the clerk receives the completed oath of office form.

B. Opening and Managing the Polls

_____ Open the polls punctually at the appointed hour and begin accepting voters.

_____ Display the empty ballot box or zero tape in a ballot counting device polling place. With at least one witness verify that the three bins in the device base are empty (fully counted, diverter – write-in, and on the side of the base – hand count ballots bin).

_____ Publicly announce when the processing of absentee ballots shall begin.

_____ Manage exit polling by requiring anyone involved to set up outside the railed-in area and outside the usual and customary path into and out of the polling place.

_____ Ensure that the number of voters within the guardrail who have a ballot, excluding those handing the moderator the ballot or feeding it into the ballot counting device, does not exceed the number of voting booths and voting screens.

Duties of Moderators

_____ Ensure that voters do not leave the area enclosed by the guardrail while in possession of a ballot.

_____ Upon requests for assistance in voting, provide information on accessible voter options.

_____ Administer the required oath to both a voter seeking assistance and anyone providing voter assistance (an inspector of election or person of the voter's choice, as long as the latter is not the voter's employer or union official).

_____ If a voter returns a spoiled ballot to the moderator, that voter is entitled to receive a replacement ballot, and the moderator must write "canceled" on the ballot, sign it, and hold it to be put in a special envelope to be sealed with other ballots after the closing of the polls. **Do not deposit a "canceled" (spoiled) ballot in the ballot box or ballot counting device.**

_____ Allow anyone who wishes to observe the election, including listening to the check-in process, to do so from outside the rail (but not sitting or standing within 6 feet of a ballot clerk).

_____ For high volume polling places: document, at regular intervals (for example, every 30 minutes or hour) how many people are waiting in line.

_____ When doing anything unusual or that could be misunderstood, inform and educate those present at the polls.

_____ Rule on any challenges (other than for age, citizenship, or domicile which are decided by the supervisors of the checklist), but if the voter is found to be not qualified, allow him or her to vote upon completing the Challenged Voter Affidavit.

_____ Out of Ballots: monitor voter turnout and request the clerk prepare additional unofficial ballots if it appears that the supply of official ballots will be exhausted; ensure such ballots are authenticated by the clerk, if put in use, and maintain a count of such ballots used.

C. Processing Absentee Ballots:

_____ Receive absentee ballots from the clerk prior to the closing of the polls or at a time set for processing of absentee ballots.

_____ At the time posted on the required notices, begin processing absentee ballots by announcing that you are about to open the envelopes.

_____ If the name of the voter is on the checklist and the affidavit is properly executed, publicly announce the name of the absentee voter (except for confidential voters).

_____ If you determine that an absentee ballot will be rejected, publicly announce the voter's name and just that the absentee ballot has been rejected (do not publicly announce the reason for the rejection), then record, next to the name of the absentee voter on the clerk's absentee voter list, the word "rejected" and the reason for the rejection, and preserve the unopened envelope.

_____ Do not reject absentee ballots for immaterial additions, omissions or irregularities in the preparation or execution of any writing or affidavit required (such as stray marks on the ballot, a tear in the ballot, a coffee stain) nor an absentee ballot that has been electronically transmitted to a UOCAVA voter due to envelope or affidavit paper weight, size or color, or any ink, font size, alignment or color.

_____ If the absentee ballot is challenged, the moderator shall write on the envelope containing the ballot, the word "challenged," number the ballot, and write the name and address of the person making the challenge (and the basis of the challenge) on the envelope or on a form for that purpose.

Duties of Moderators

_____ Rule on any challenges (other than for age, citizenship, or domicile, which are decided by the supervisors of the checklist, consult with the supervisors if the reason is a reported death). If the reason for the challenge is well-grounded and available evidence makes it more likely than not that the voter is not qualified to vote, leave the envelope unopened and preserve it. If the challenge is not well grounded (meaning the available evidence makes it more likely than not that the voter is qualified to vote), the envelope is opened and the reverse side of the ballot is numbered with the same number written on the envelope: the ballot is then processed in the same manner as an unchallenged absentee ballot.

_____ Ensure that an “Asserting a Challenge” form is completed for all challenged and rejected absentee ballots, including those that are challenged by the moderator, clerk, or other election officials.

_____ Open the envelope containing the absentee ballot in public (envelope is preserved), remove the ballot (without unfolding it or examining it), direct the ballot clerks to place a checkmark beside the name of the absent voter on the checklist adding the letters "AV" in red ink and drawing a single thin line on the checklist through the voter's last name. After it has been verified, that the voter has not voted in person and the checklist has been marked, as the last step the ballot is deposited in the ballot box or inserted into the ballot counting device.

D. Closing the Polls; Counting the Votes; Declaring & Reporting Results; Sealing & Certifying the Ballots

_____ Close the polls to further voting at the hour stated in the warrant or notice, unless the hours have been extended by court order.

_____ In the event of a court order to keep the polls open for extended hours, ensure each ballot issued after the original closing time is marked “EH.”

_____ In addition to the clerk and supervisors, certify on the checklist marked by ballot clerks that this was the checklist used on election day.

_____ Oversee the counting of votes, including setting up the counting area so that no ballot is within 4 feet to the guardrail and selecting volunteers (as needed) to assist in the counting.

_____ Swear in any volunteers assisting with the count and ensure written oaths are completed and filed with the clerk.

_____ After counting is complete and before reconciliation, examine the ballot box or all three bins in the ballot counting device base to ensure there are no uncounted ballots.

_____ Ensure reconciliation (ideally the total votes of all candidates and write-ins, plus overvotes and undervotes, should equal the number of ballots used and voters marked on the checklist as voting).

_____ Complete the Moderators Worksheet, Moderator's Certificate (At a primary, one for each party), and Names on Checklist reports.

_____ Publicly declare the results, including write-in votes.

_____ Post a copy of the written results at the polling place.

_____ Provide results to the clerk who completes the Return of Votes forms.

_____ Retain copies of the Return of Votes, Names on Checklist, Moderator's Certificate, Moderator's Worksheet, ballot counting device long results tape, as well as any tally sheets and reconciliation worksheets that may have been used for the election.

Duties of Moderators

_____ Seal and certify ballots: in the presence of the selectmen or their designee, place the cast ballots, cancelled ballots, uncast ballots, ballots from any additional polling places, and successfully challenged absentee ballots in the boxes supplied by the Secretary of State; mark the information on the seal; apply the seal to the container; and deliver the sealed containers to the clerk. Ballots go in boxes labeled in red ink "Ballots." Absentee voting materials including all successfully challenged and rejected absentee ballots go in the boxes labeled in blue ink "Absentee Voting Materials."

_____ Deliver the Challenged Voter Affidavits and Asserting a Challenge forms to the Clerk.

_____ Report any RSA election violations to the Attorney General.

_____ Fill out the two copies of the Moderator's Certificate (if the election is a state election).

AFTER THE ELECTION

_____ Oversee recounts in town elections. See Model rules at page 433.

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Encourage Voting

A major responsibility faced by local election officers is conducting elections in a manner that encourages voting – making the process quick, easy, and fair to all – while at the same time ensuring that the outcome of elections are not illegally influenced by unqualified persons voting.

Procedures that make voting easy inherently also make voting fraud easier. Procedures that detect and deter voting fraud by their nature make it more complex and time consuming to register and vote. Local election officials must strive to attain the proper balance between these competing interests.

The term “supervisors of the checklist” shall include any city board of registrars or similar body performing the functions of registering voters and correcting the checklist in cities. RSA 652:15.

Voter Registration Form

The current version of the Voter Registration Form is the July 2016 form.

The statute that defines the voter registration form, RSA 654:7, was revised by SB3 (2017) to establish different forms for registering more than 30 days before an election versus registering within 30 days and on election day.

However, the courts have held SB3 unconstitutional, therefore the statute and forms as they existed before SB3 are the current law.

The voter registration form has a section in the upper right hand corner to document the circumstance in which the form is used.

_____ NEW REGISTRATION I am not registered to vote in New Hampshire.

_____ TRANSFER I am registered to vote in

New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.

_____ NAME CHANGE / ADDRESS UPDATE I am registered to vote in this town/ward and have changed my name/address.

There is public and legislative interest in the number of new voters registered. Distinguishing new voter registrations from circumstances where a voter is already registered in New Hampshire but has moved from one town/ward to another or is using the form to document a name or address change helps provide accurate information on new registrations, in particular election day registrations. RSA 654:7.

When supervisors receive an applicant's voter registration form in person, it creates an opportunity for a dialogue with the voter. You can assist the voter in correctly and completely providing the information needed to maintain accurate records of who is registered in your town/ward.

If possible, obtain the applicant's middle name. It is very beneficial to obtain a voter's complete middle name and to enter the full name into *ElectioNet*. The full middle name makes it easier to confirm whether this voter is the same voter who previously registered in another jurisdiction.

The voter registration form requires an applicant to identify the place where the person was last registered to vote. This information is helpful in determining whether the voter is the same person as or a different person than a voter registered in another town/ward/state who has the same name.

Refer to sample voter registration form on page 344.

Supervisor reminder: Always check Inquiries in *ElectioNet* before entering a new voter, whether an existing New Hampshire voter transferring his or her registration or an out-

of-state voter, who may be a new voter in New Hampshire or who may be someone previously registered here who is moving back into New Hampshire. It is quicker and less work to take this step than to merge two records if it is later determined the person already has a record entered in *ElectioNet*.

If an applicant reports a place where they had last registered to vote on the voter registration form, enter that information into the statewide centralized voter registration database in a timely manner.

If the applicant reported having been registered in another state and it is entered into *ElectioNet*, the Secretary of State will notify the chief elections officer in the other state that the person has registered to vote in New Hampshire. If a person who is registered to vote in New Hampshire registers to vote in another state and that state notifies New Hampshire, the supervisors of the checklist will receive notice from the statewide centralized voter registration database or on paper that the voter has registered in another state. Unless the supervisors possess evidence that the notice is inaccurate, they must remove the voter from the checklist as provided in RSA 654:36. RSA 654:13.

Applicants Must Provide Proof Of Qualifications

RSA 654:12 requires all applicants to provide proof of their qualifications as voters to the supervisors or the clerk.

DETERMINING QUALIFICATIONS OF APPLICANT

When determining the qualifications of an applicant, the supervisors of the checklist, or the town or city clerk, shall require the applicant to present proof of identity, citizenship, age, and domicile.

Any person whose name is not on the checklist but who is otherwise a qualified voter shall be entitled to vote by requesting to be registered to vote at the polling place

on election day. The voter may then vote at that election. The applicant shall be required to produce appropriate proof of qualifications as provided in RSA 654:12.

While it is mandatory that some proof of qualifications be produced, which may be a signed affidavit, the supervisors and the clerks, acting in accordance with the supervisor's guidelines, can approve reasonable documentation to establish the voter's qualifications with respect to identity, age, citizenship and domicile. RSA 654:8. The identity, age, citizenship, and domicile requirements in RSA 654:12 includes the term "reasonable" to describe the proof or documentation required. Furthermore, the state and federal constitutions still require that everyone be allowed to vote somewhere, unless disqualified as a voter, under age, incarcerated felon, etc. It is inherent in this requirement that an individual whose circumstances do not allow or who chooses not to have a driver's license, not to register a vehicle, not to purchase utility services, etc., must have some method available by which to prove his or her domicile. The Qualified Voter and Domicile Affidavits satisfy this requirement.

The statute that establishes the domicile requirement to hold elected office provides that "Registration to vote or voting in another state during the relevant time period shall create a presumption that a person does not have a domicile in this state." RSA 655:2.

STANDARD OF PROOF

The supervisors of the checklist determine whether an applicant is qualified to register to vote. The supervisors of the checklist act in a quasi-judicial capacity and are obliged by law to act impartially based on the evidence before them including facts known to them.

The decisions made by the supervisors of the checklist are subject to review by the Superior courts. It is prudent to consult with the Secretary of State's Office or the Attorney General's Office before rejecting an

application where there is any uncertainty.

The term "quasi-judicial" in this context means having a partly judicial character. The supervisors possess the right to hold meetings and conduct investigations as to the qualifications of an applicant for registration as a voter.

An applicant may file a complaint with the superior court stating that his name has been illegally kept from the checklist and asking to have his or her name added thereto. RSA 654:14; RSA 654:42.

The supervisors must appropriately document any decision to reject an applicant. The vote to reject and the grounds for rejection must be included in the minutes of the meeting as required by the Right-to-Know law, Chapter 91-A. The rejected applicant must receive proper notice of the decision within 7 days. RSA 654:13; RSA 654:23.

RSA 654:11 establishes the standard of proof or test to be used by the supervisors when deciding if an applicant is qualified to vote. The standard of proof is the standard of proof that will be applied by the courts if the supervisors' decision is appealed.

If there is contradictory evidence or questionably sufficient evidence before the supervisors regarding any particular candidate's identity, age, citizenship or domicile qualifications, RSA 654:11 creates a presumption that the applicant is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified.

Stated in other terms, if the evidence that:

- the person is not who he or she claims to be,
- will not be age 18 on election day,
- is not a United States citizen, or
- is not domiciled in the town or city ward where he or she seeks to register

outweighs the evidence that he or she is qualified, then it is proper to deny the application.

This standard is also sometimes referred to as a preponderance of the evidence standard of proof.

Stated a third way, supervisors must reject an application if the evidence as a whole shows that it is more probable than not that the applicant is:

- not who he or she claims to be,
- will not be 18 by election day,
- not a United States citizen, or
- not domiciled in the town or city ward where he or she seeks to register and vote.

Decisions must be made by a majority vote of the supervisors properly recorded in the minutes of the meeting.

APPLICATION TO SUPERVISORS

“When the supervisors of the checklist receive a registration form from the town or city clerk or when an applicant submits the form to said supervisors in person at a session for the correction of the checklist, the supervisors of the checklist shall cause his or her name to be added to the checklist, unless it is established that it is more likely than not that the applicant is not qualified to vote in the city or town under RSA 654:1 through RSA 654:6. All decisions of the supervisors of the checklist shall be made by majority vote thereof.” RSA 654:11.

A chart on page 343 summarizes the types of documentation authorized for voter registration.

PROOF OF IDENTITY

The applicant must prove his or her identity during the application process. If a person has any one of the following forms of photo identification in his or her immediate possession, he or she must present it when applying for registration:

- (1) Photo driver’s license issued

by any state or the federal government.

- (2) United States passport, armed services identification, or other photo identification issued by the United States government.
- (3) Photo identification issued by local or state government.

These forms of identification are considered presumptive evidence of the identity of an applicant. RSA 654:12, II(b). The supervisors of the checklist may approve other forms of photo ID that they deem to be reasonable. RSA 654:12, II and III.

A person who does not have one of the approved photo identifications described above or approved by the supervisors may establish identity through the completion of a Qualified Voter Affidavit. (page 321). RSA 654:12.

A driver’s license from another state is presumptive proof of identity, but not of domicile in New Hampshire. Unless you have evidence that contradicts the proof of identity offered by the out-of-state driver’s license, you must accept it as proof of identity. This means the person can then swear or affirm the Qualified Voter Affidavit for age and citizenship and the Domicile Affidavit for proof of domicile. Generally, you must accept a properly executed affidavit. RSA 654:12.

NURSING HOME RESIDENTS

Residents of a nursing home or similar facility who no longer possess the usual forms of identification, may prove their identity through verification by the administrator of the facility or his or her designee. If an applicant for voter registration proves his or her identity by having it verified by a nursing home administrator, that registration will be treated

in the same manner as would a registration where the applicant proved his or her identity with qualified photo identification. RSA 654:12, III.

PROOF OF DOMICILE

The New Hampshire and United States Constitutions establish that every United States citizen who is at least 18 years old on election day has a right to vote somewhere, unless disqualified.

A person can be disqualified due to being under age, being a convicted felon who is currently incarcerated for that conviction, being a person who has been convicted of a willful election law violation, or not being a citizen of the United States. Otherwise, the person has a right to vote somewhere. Domicile analysis must be about whether your town or ward is the right place for the person to vote, not if the person gets to vote.

The determination of whether a person is domiciled in the town or ward where he or she seeks to vote is usually easy and quick. Most applicants will present a New Hampshire driver's license or some other document that clearly establishes the domicile they put on the voter registration form. For a few applicants determining domicile is a challenging but critical part of conducting lawful, fair elections that encourage voting.

The law on domicile provides:

I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in

democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

I-a. A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.

II. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law.

RSA 654:1.

RSA 654:2, was revised by SB3 (2017), however, the courts have struck down SB3, therefore the statute as it existed before SB3 is the current law. Do not rely on the 2020-2021 or 2022-2023 version of the New Hampshire Election Laws (statute book), as it contains enjoined language. The information here reflects the current law, in light of the court order.

Domicile for purposes of voting is a question of fact and intention. A voter can have only one domicile for these purposes. RSA 654:2.

Domicile is retained when temporarily absent.

"A domicile for voting purposes acquired by any person in any town shall not be interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his or her domicile." RSA 654:2.

Voters in special circumstances can register and vote using a former domicile.

"No person shall be deemed to have lost a domicile by reason of his or her presence or absence while the

Duties of Supervisors of the Checklist

voter or his or her spouse is:

- *employed in the service of the United States; nor*
- *while engaged in the navigation of the waters of the United States or of the high seas; nor*
- *while a teacher in or student of any seminary of learning; nor*
- *while confined in any public prison or other penal institution; nor*
- *while a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility.”*

RSA 654:2.

Voters in this circumstance may:

- Register and continue to vote indefinitely from the domicile address they established before starting:
 - Employment with the United States, which includes military service;
 - Employment on the waters of the US or the high seas;
 - Attendance at college, university, or residential high school as a student or teacher;
 - A sentence for a misdemeanor at a county house of corrections (felons in state prison lose the right to vote while incarcerated) or in pre-trial detention; and
 - Treatment or more permanent residence at a nursing home, senior living facility, hospital, convalescent home.
- Register and vote from the domicile address where the voter lives while:
 - Employed by the United States, including military service;
 - Employed on the waters or the US or high seas;
 - Attending or teaching at a college,

university, or residential high school; and

- Residing in a nursing home, senior living facility, hospital, or convalescent home.

RSA 652:2.

Federal law requires that for the purposes of voting “*the spouse of a servicemember may elect to use the same residence as the servicemember regardless of the date on which the marriage of the spouse and the servicemember occurred.*”

50 U.S.C. § 4025(b)(2).

A person incarcerated in a county house of corrections or in pre-trial confinement can only vote in the town or ward where he or she was domiciled immediately before being incarcerated. This is regardless of whether the person has a domicile in that town or ward while incarcerated and is not dependent on the person planning to return to that town or ward upon release. A person incarcerated in a county house of corrections cannot vote in the town or ward where the corrections facility is located, unless the person was domiciled in that town or ward before incarceration. Voters incarcerated in a county house of corrections vote by absentee. An incarcerated person registered or eligible to vote in another state, who is a citizen of another state, must vote in that state, in accordance with that state’s laws. RSA 654:2-a.

INCARCERATED PERSONS; ADDRESSES

When completing a voter registration form or an absentee ballot application, an incarcerated person must list the address of his or her domicile prior to incarceration in the address section and the address of the penal institution in the mailing address section. RSA 654:2- a.

INCARCERATED PERSONS; ABSENTEE VOTING CLARIFICATION

A voter who is incarcerated for a misdemeanor or who is being held in a penal institution while awaiting trial has the right to

vote by absentee ballot. The absentee ballot application form and absentee ballot affidavit envelope have been changed to add this to the list of recognized reasons a person may vote by absentee ballot. RSA 657:4 and RSA 657:7.

A person can only have one domicile for voting purposes and it is the one place, more than any other, where the individual has established a physical presence and manifested an intent to make that place his or her domicile.

The supervisors must consider the applicant's manifestations of intent to maintain a single, continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.

There are many types of documents that satisfy this requirement. A court order has enjoined enforcement of statutes enacted by SB3 (2017) that list examples of satisfactory documents. However, election officials recognized the documents listed in those statutes as satisfactory evidence of domicile prior to the adoption of Senate Bill 3. They, therefore, remain satisfactory proof. The following documents are examples of satisfactory proof of domicile:

- A New Hampshire driver's license or non-driver ID showing the applicant's current domicile address;
- A document from the school that the applicant attends, showing that the applicant lives in campus housing. A document issued by the school that has the applicant's name and the address where the applicant lives satisfies the requirement. Many colleges and universities provide students with satisfactory documents already.
 - Students may also use a smart phone or other electronic device to show the election official a page from the

college or university's official student electronic records web site, which lists the student's dorm assignment or off-campus residence address.

- Some universities have established an on-line web page resource specifically for the purpose of voter registration. Advise the applicant to contact their school official if they are having trouble displaying or finding this information.
- A note signed by a school official, including a Resident Assistant or other person with supervisory responsibility for the applicant's dorm satisfies the requirement under RSA 654:1, I-a.
- A rental agreement, lease, or similar document that shows the applicant's name and the address of the applicant's domicile. The document must show that the applicant's is domiciled at the address on Election Day.
- A document showing that the applicant owns the place the applicant is domiciled at, such as a deed, property tax bill, or other similar document that has the applicant's name and address.
- A New Hampshire resident motor vehicle registration, driver's license, or non-driver photo ID showing the applicant's domicile address.
- A voter photo ID issued by the NH Division of Motor Vehicles at no cost to the applicant.
- To obtain a photo ID card that can only be used for voting purposes, ask the town or city clerk or the Secretary of State's office for a voucher and present it to the Division of Motor Vehicles (DMV).

- Information on the documents an applicant will need to present to the DMV is available here: <https://www.dmv.nh.gov/drivers-licensenon-driver-ids/apply-your-first-drivers-licensenon-driver-id> (Last Visited 8/4/2022).
- A document showing that the applicant enrolled a dependent minor child in a public school that serves the town or ward of the applicant's domicile.
- Any state or federal tax form, other government form, or government issued identification that shows the applicant's name and domicile address.
- Any form from the US Post Office showing the applicant's name and the physical address where the applicant asserts they are domiciled (not a P.O. Box). The confirmation the applicant received by e-mail or US mail when the applicant reported a permanent new address to the Post Office satisfies the requirement.
- Mail addressed to the applicant at the address claimed as domicile that is canceled or otherwise shows it was delivered to the applicant at that address satisfies proof of domicile.
- A public utility bill, such as an electric, telephone, water, gas, or other utility bill, with the applicant's name and domicile address on it.
- A note from a homeless shelter or other service provider located in the town or ward where the applicant will vote that confirms they will receive US mail sent to the applicant at that address.
- The applicant may also use any other document that shows manifestation of the applicant's intent to make the

place the applicant claims as a voting domicile.

See Registering to Vote in New Hampshire, July 2022, at page 19.

New Hampshire does not impose a requirement that a person have lived at his or her new domicile for any period of time before being eligible to register and vote. The domicile requirement does not prevent a person from moving to a New Hampshire town or ward, registering, and voting on the same day he or she moves into the new town or ward.

To provide guidance for the determination of domicile and to make the process of registering to vote easy and quick for most applicants, the law establishes certain documents as presumptive proof of being qualified as a voter.

"II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

Any one of the following documents is presumptive evidence that the individual seeking to vote meets the domicile requirement, provided the document is currently valid, was issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:

1. *New Hampshire driver's license.*
2. *New Hampshire vehicle registration.*
3. *Armed services identification, or other photo identification issued by the United States government."*

RSA 654:12, II.

These documents are presumptive only. The ultimate decision to accept or reject the application lies with the supervisors of the checklist or, in cities, with the registrars. (References to the supervisors apply equally to registrars who serve the same role in s cities.) Provided the supervisors possess

evidence that, in their judgment, makes it more likely than not that the applicant is not domiciled where shown on one of these presumptive documents, the supervisors may vote to reject the applicant. RSA 654:12, II(c). Document the decision in the minutes of the meeting. It is expected, however, that most applicants will possess one of these documents and will be able to register quickly and conveniently.

The law requires that the supervisors of the checklist, or the clerk acting as their agent, shall require the applicant to present proof of identity, citizenship, age, and domicile. However, the law continues to give the supervisors broad discretion as to what, in addition to the presumptive documents, they choose to accept as proof. The supervisors may accept, and by inference may not reject, any reasonable documentation to prove identity, age, citizenship, and domicile.

In the event an applicant does not have proof documents with him or her when registering, the applicant is entitled to use an affidavit to prove qualifications. The right to use an affidavit applies equally where the applicant does not possess the proof document anywhere and where the applicant possesses the proof document but did not bring it when registering. Do not send an applicant away to obtain proof. Provide the applicant with a Qualified Voter Affidavit for proof of identity, age, and citizenship. Provide the applicant with a Domicile Affidavit for proof of domicile.

The Domicile Affidavit was removed from the law by SB3(2017), however, as that change to law has been held unconstitutional by the courts, the Domicile Affidavit in use before SB3 was adopted is now in use. The statute defining the form has not been reenacted, therefore, the form is not in the current RSAs. The 2016 version of law is applied due to the court decision. The form is on page 320 and is available in *ElectioNet* > Help > Instructions.

In an effort to deter voting fraud and to make prosecution of voting fraud more feasible, the affidavits explicitly require the applicant to swear or affirm the truth of his or her written statements in front of an election officer or other official qualified to take oaths. The moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisors of the checklist, registrar, deputy registrar, notary public or a justice of the peace may take the oath and sign the affidavit attesting that the oath was taken.)

HOMELESS APPLICANTS

“All elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.”

New Hampshire Constitution, Part 1, Article 11. Both the New Hampshire and United States Constitutions establish that a homeless person has the same right to vote as a person who owns, leases, or rents a home. The same requirements for domicile apply to all.

A homeless person has a right to register and vote in that town or ward where he or she, “more than any other place, has established a physical presence and manifests an intent [has acted to carry out an intent] to maintain” his or her domicile. RSA 654:1. A homeless person’s domicile may be the street or parking lot where a person living in a car parks/sleeps, more than any other place. The domicile may be the home of another where, more often than any other, the homeless person sleeps on a couch. The domicile can even be the park or area under a bridge where, more than any other place, the homeless person sleeps. A person who is otherwise qualified to vote, cannot be denied voter registration because he or she is homeless.

Request the applicant to provide the best available mailing address, which may be the address of a homeless shelter, church, social service organization, relative, etc. who would

receive and pass along mail sent to the applicant.

LEGALITY OF DOMICILE

A person generally loses the right to vote only if convicted and incarcerated for a felony. Evidence that an applicant/voter is domiciled at a location where not permitted by local ordinance, homeowner's association rules, or lease rental agreements does not constitute a basis to deny the person registration as a voter. Even if it is proven in court that the person is not permitted to have a primary residence at the claimed domicile, that does not take away the person's right to vote using that address as their voting domicile.

STUDENT VOTERS

Treat students like any other person applying for registration or, if already registered, seeking to vote.

PROOF OF IDENTITY

RSA 654:12, II(b) establishes a list of documents which are presumptive proof of identity. These documents need not be currently valid, may show an address in another town/city or even state, but are adequate to establish identity for the purposes of swearing or affirming an affidavit.

PROOF OF CITIZENSHIP

RSA 654:12, I(a) establishes a list of documents which are presumptive proof of citizenship.

See page 347 for examples of the various types of forms that are proof of citizenship.

Submission by the applicant of any one of the identified documents is sufficient for compliance with this section. Do not require any further document in this category. RSA 654:12.

Best practice is to have all applicants who do not have proof of citizenship complete a qualified voter affidavit. It is important to

ensure that all applicants are treated equally. If the applicant is transferring (has been previously registered in New Hampshire) the applicant has previously established citizenship and age and need not re-prove those qualifications. RSA 654:12, IV.

DETERMINING QUALIFICATIONS OF APPLICANT

“(b) Any one of the following is presumptive evidence of the identity of an applicant sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the oath of an applicant swearing to a qualified voter, domicile, or election day (registration form) affidavit:

1. *Photo driver's license issued by any state or the federal government.*
2. *United States passport, armed services identification, or other photo identification issued by the United States government.*
3. *Photo identification issued by local or state government.”*

RSA 654:12, II.

As was the case with the documents established as presumptive proof of domicile, supervisors can reject these documents as proof of identity if they have evidence of greater weight that contradicts them. It is necessary that the contradictory evidence make it more likely than not that the person is not who he or she claims to be.

Supervisors may accept any other form of photo ID that they deem reasonable as proof of identity. RSA 654:12, II. The purpose of the statute is to allow an applicant to register to vote, regardless of whether the applicant has proof of his or her qualifications with him or her to register and vote provided that he or she can establish his or her identity and is willing to sign affidavit(s) under penalty of law.

The process is made more formal in order to ensure the applicant understands the importance of the process and to provide a

record of who took the affidavit oath to aid in prosecution should it later be established that the affidavit was not true.

The affidavit forms each require the affiant, the applicant, to swear to an election official, notary or justice of the peace who must then sign the form them self attesting to having received the oath. See Qualified Voter Affidavit on page 321 and Domicile Affidavit page 320. The forms are also available in *ElectioNet* under Help/Instructions.

As a general practice, supervisors should only accept voter registration affidavits if they have been signed in their presence at the supervisor's request. This will help the state avoid mailing follow-up letters to those voters whose affidavits were not requested by a supervisor of the checklist.

If supervisors find themselves receiving affidavit forms they have not asked for and do not require for voter registration, it is recommended that they communicate with those individuals who are generating them. The purpose is to obtain and record in *ElectioNet* the forms that are needed for voter registration, nothing more nor less.

If voters submit unnecessary affidavits during voter registration, supervisors are encouraged to note this fact in the "For Official Use" box on the front page of the voter registration form, and to subsequently enter in *ElectioNet* only those affidavits that they deemed necessary for voter registration.

Do not request a Domicile or Qualified Voter Affidavit from every applicant. Require an affidavit only from those applicants who cannot otherwise prove their qualifications.

INCARCERATED FELONS

A person sentenced to serve time in prison for a felony, from the time of imposition of his sentence until his final discharge, may not vote unless the sentence is suspended or the individual is paroled. A person sentenced for a felony to a suspended sentence and/or

probation, who is not incarcerated in prison does not lose his or her right to vote. An individual sentenced for a felony forfeits any office held at the time of sentencing and may not become a candidate for, seek party nomination for, or hold public office until the sentence is finally discharged. "Final discharge" means the release of a prisoner from incarceration. A person who is on probation or parole shall be considered to be finally discharged for the purpose of this section. RSA 607-A:2; RSA 654:5.

People confined in a penal institution in pre-trial detention or as a result of a conviction for a misdemeanor retain the right to vote. Most people sentenced to County Corrections fall in this category. Their domicile for voting purposes is the address in the town or city where they had their domicile immediately prior to being confined. Persons confined in a penal institution must vote by absentee ballot. **When completing a voter registration form or an absentee ballot application, an incarcerated person must list the address of his or her domicile in the address section and the address of the penal institution in the mailing address section.** RSA 654:2- a.

The Secretary of State forwards communications from different official sources to local jurisdictions that contain evidence of incarcerations for felonies. Some of these persons' terms of incarceration have already been served. When notified of a voter's current felony incarceration, supervisors of the checklist should remove the individual from the checklist. Supervisors should take time to identify the period of incarceration and use it to assess whether a person who has served time for a felony is now released and again eligible to register and vote.

RSA 607-A:2 defines "Final discharge" as the release of a prisoner from incarceration. "A person who is on probation or parole shall be considered to be finally discharged for the purpose of this section." It is therefore no

longer necessary to make a separate determination of whether the person is eligible to hold/seek office at any particular moment in time. If the person is registered as a voter and is not currently incarcerated for a felony, they may seek public office. RSA 607-A:2.

LIFETIME DISQUALIFICATION

Any person convicted of bribery or intimidation relating to elections or any willful violation of the election law is forever disqualified from voting, seeking or holding public office. New Hampshire Constitution, Part 1, Article 11; RSA 654:6. This means a person purposely voting twice in one election, otherwise purposely committing voter fraud, purposely committing voter intimidation crimes, or purposely engaging in unlawful voter suppression may, in addition to paying a fine and/or going to prison, lose his or her right to vote for life. The right to vote can only be reinstated by the New Hampshire Supreme Court. The Attorney General's office will notify local election officials when a voter is disqualified for life. An entry is made in *ElectioNet* to alert election officials in case the disqualified voter seeks to re-register. Always verify a disqualification with the Attorney General's office before denying an application.

VOTING TWICE IN THE SAME ELECTION PROHIBITED

To become registered the applicant will have to sign the registration form, under penalty of voting fraud, that includes the phrase "*and if registering on election day, that I have not voted and will not vote at any other polling place this election.*" RSA 654:7. If an election official, another voter qualified to vote in the polling place, or a challenger appointed in writing by the state political party has evidence that a person has already voted in the election, by absentee ballot or otherwise, they may make a voter challenge with the moderator. After the election, report any evidence that a person voted in one town by absentee ballot and in

a second town in person to the Attorney General's Office. It is a felony to vote in the same election in New Hampshire and in some other state.

Absentee Registration For Non-UOCAVA Voters

A person desiring to register to vote who has a disability or is temporarily absent may register using an Absentee Voter Registration Affidavit Form and the Voter Registration Form, July 2016. This includes a person who is present following the last session for correcting the checklist, but who plans to be absent on election day. RSA 654:16. RSA 654:17. A person may request absentee voter registration forms and instructions separately from requesting an absentee ballot.

An applicant for an absentee ballot who is not registered to vote shall be provided with the forms and instructions for absentee registration. RSA 657:16. This statute does not impose a deadline for providing absentee voter registration forms to applicants. Therefore, issue absentee voter registration applications until the day before an election.

RSA 654:8, II prohibits a clerk from accepting an in-person application for voter registration "*after the last meeting of the supervisors of the checklist before an election.*" However, RSA 657:16 provides that for completed absentee voter registration applications, "*[a]ll documents received after the deadline for correcting the checklist under RSA 654:27 and RSA 654:28 shall be processed as election day registrations under RSA 654:7-a.*"

Considered together, these statutes permit a person qualified to register to vote to request both an absentee ballot and an absentee voter registration form and supporting documents up until the day before an election. Both can be returned in person to the clerk's office up through the day before an election or by mail provided it is received by the clerk by 5:00 PM on election day.

Sometimes, a voter might have planned to register and vote in person on election day, but new circumstances require the voter to be absent on election day. In that case, the person may apply for registration using the absentee voter registration process either by mail or in person at the clerk's office.

The clerk may not make final determinations regarding whether the proof of qualifications offered satisfy the requirements for voter registration. The applicant must provide copies of the proof offered. The clerk will provide the supervisors with the application and supporting documents on election day. The supervisors will review the application and copies of proof offered on election day and determine then whether the person qualifies to be added to the checklist.

All applicants for absentee registration are required to send copies of the documents that they rely on as proof of identity and domicile. Applicants for registration must complete the Voter Registration Form, July 2016 and one of the two Absentee Voter Registration Affidavits.

"That I hereby enclose one of the following as proof of identity and domicile:

- (a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows the name and address of the voter; or
- (b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be

approved;"

RSA 654:17

ABSENTEE REGISTRATION AFFIDAVIT

The law does not authorize a person applying to register absentee to use a Qualified Voter Affidavit for proof of identity or a Domicile Affidavit as proof of domicile. They must provide copies of documentary evidence of these qualifications.

ABSENTEE REGISTRATION UNIFORMED AND OVERSEAS CITIZENS

There are three general categories of Uniformed and Overseas (UOCAVA) voters in State law: Refer to FPCA (page 334).

Section 1 (Classification) and images from the FPCA below.

- Uniformed services voters (members of all the active-service military branches, including the Merchant Marine and National Guard), and the spouses or dependents of any of the above. A uniformed services voter, regardless of whether he or she has a domestic or foreign address, has the right to vote in any election in the town or city in which he or she had his or her domicile immediately prior to his or her entry into service. RSA 654:3. See Federal Post Card Application form on page 334.

This "military service" category includes the 1st line on the FPCA form.

- Absent voters residing outside the United States. Any absent voter residing outside the U.S. borders and intending to return shall have the right to vote absentee in any election in the town or city in which he or she

Duties of Supervisors of the Checklist

had his or her domicile immediately prior to his or her departure. RSA 654:3. See Federal Post Card Application form on page 334.

This “intend to return” category applies to the 2nd choice on the FPCA.

Voter Information
Federal Write-In Absentee Ballot (FWAB)

Print clearly in blue or black ink; please see back for instructions.

1. Who are you? Pick one.

For absent Uniformed Service members, their families, and citizens residing outside the United States:

I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent.
 I am a U.S. citizen living outside the country, and I intend to return.
 I am a U.S. citizen living outside the country, and my intent to return is uncertain.
 I am a U.S. citizen living outside the country, and I have never lived in the United States.

Last name: _____ Suffix (Jr., II): _____ Sex: Female Male

Federal Office Only (FOO) voters: Any United States citizen residing outside the United States who does not intend to return. These voters, if they are otherwise qualified to vote, have a right to register absentee. They may vote absentee only in federal elections and only for federal offices (President, Senator, Member of Congress) in the town or city in New Hampshire in which they, or a parent or legal guardian (if they have never lived in the United States), had their domicile immediately prior to departing the United States. RSA 654:3. See Federal Post Card Application form on page 334.

This FOO category encompasses the 3rd and 4th choice in the FPCA form.

Voter Information
Federal Write-In Absentee Ballot (FWAB)

Print clearly in blue or black ink; please see back for instructions.

1. Who are you? Pick one.

For absent Uniformed Service members, their families, and citizens residing outside the United States:

I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent.
 I am a U.S. citizen living outside the country, and I intend to return.
 I am a U.S. citizen living outside the country, and my intent to return is uncertain.
 I am a U.S. citizen living outside the country, and I have never lived in the United States.

Last name: _____ Suffix (Jr., II): _____ Sex: Female Male

The Federal Post Card Application (FPCA), when signed, is a voter registration application form, and identifies the UOCAVA category of the voter. RSA 654:20. The town or city clerk shall forward a copy of all FPCA forms from individuals who are not yet registered to the supervisors of the checklist. RSA 657:19-a. Upon receipt of a return envelope from an unregistered UOCAVA individual, the clerk shall open and retain the envelope and copy and deliver the affidavit envelope and any other registration materials to the supervisors of the checklist. RSA 657:21. See FPCA form on page 334. Recommended procedure:

- If not registered, the clerk or supervisors must enter the voter record in *ElectioNet* as “Pending” approval.
- If registered, update any voter information in *ElectioNet* found on the FPCA form.

Supervisors are required to indicate on the checklist if a Federal Office Only voter [voter residing outside the United States and does not intend to return] is entitled to vote for federal offices only. RSA 654:23. This is accomplished by entering the domicile address as “Overseas Citizen Federal Office Only.” Refer to *ElectioNet*>Help>Instructions>Street Addressing FAQ’s.

MILITARY TERM - “HOME OF RECORD”

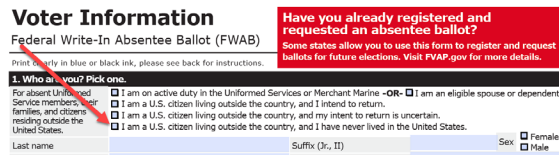
For voting purposes, the home of record is the town in which the person was domiciled when the person entered the armed services. Military documents may refer to the “home of record.” Such documents are good evidence that the town/ward listed is a valid voting domicile if the individual remains in military service.

BORN OUTSIDE THE U.S.

Any U.S. citizen who is 18 years of age and is domiciled outside the United States, has the right to vote for federal offices in the town or city in New Hampshire in which he or she, or a parent or legal guardian of said voter, had his or her domicile immediately prior to his or her departure from the U.S. RSA 654:3, III.

Clerks may receive voter registration applications (often FPCAs) from individuals (whose parents or legal guardians once lived in their town) who themselves have never lived in the town or elsewhere in the United States and yet have a right to vote somewhere because they are U.S. Citizens. If a clerk can confirm their parents or legal guardians had their domicile in town immediately prior to

their departure and the applicant has not lived elsewhere in the United States, register the applicant to vote.



UOCAVA ABSENTEE BALLOT APPLICATIONS

FPCAs are honored as absentee ballot applications applying to all elections held during the full calendar year in which they are received, except that FPCAs received in the calendar year prior to the year of the presidential election shall be honored through the presidential primary. RSA 657:19-a.

Absentee Ballot Request – Person Not Registered

Upon receiving an absentee ballot request from a person not registered as a voter, a clerk is authorized by law to send the unregistered person a ballot, a written notice of what he or she needs to do to get registered and the forms necessary for the applicant to get registered. The instructions must clearly indicate that the applicant must put the voter registration form and any supporting documents in the outer envelope, not in the affidavit envelope, when returned to the clerk.

The clerk needs to mark the absentee ballot affidavit envelope, the outer envelope the voter will use, and the absentee ballot application with the words “Not Registered” to ensure that, if the person returns the envelope, the clerk is alerted that envelope contains the documents necessary to become registered as a voter. RSA 657:16.

At the polls on election day, if an outer envelope is returned without the forms and documents necessary to complete the voter’s registration, before rejecting the absentee ballot because the person is not registered, the inner affidavit envelope must be opened

to determine if it contains the documents necessary for registration. The ballot must not be removed from the envelope and must remain folded. If the envelope does not contain the missing registration forms or documents, the envelope must be immediately sealed with staples or tape, with the unexamined ballot still inside. The clerk must write a short explanation on the envelope. Treat the envelope in the same manner as a rejected absentee ballot envelope. RSA 654:13; RSA 657:26.

INFORMATION TO CLERK

While the clerk will, in most cases, use *ElectioNet* to lookup the voter, the supervisors of the checklist shall furnish the town or city clerk, upon his or her request, the information the clerk needs to determine the proper ballot to be sent to an absentee voter. RSA 657:14. Retain all voter registration forms and other records relating to voter registration securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. File any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted. RSA 654:13-a.

CHECKLIST STANDARDS

Supervisors must maintain completed registration forms and checklists in alphabetical order. Update each after each election. The Secretary of State is required to issue checklist guidelines that include the content of the checklist. RSA 654:25.

TIMELY ENTRY OF NEW VOTERS AND CHANGES

To avoid confusion, supervisors of the checklist are responsible for:

- Entering new voters into *ElectioNet* in a timely manner,
- Approving pending removals; and

- Pending approvals

before providing copies of the checklist to the public. If it is necessary to provide an uncorrected checklist to satisfy the requirements of the Right-to-Know law, the recipient should be advised in writing that there are pending corrections to the checklist that are not shown on the copy of the checklist they are receiving. The Right-to-Know law requires that a public record that is immediately available must be provided immediately RSA 91-A:4.

Addresses Conform to USPS Publication 28

The Secretary of State is required to ensure that voter addresses in the Statewide Voter Registration System are formatted in conformance with US Postal Service requirements. This includes a requirement for the zip code +4 format. RSA 654:45.

Permanent Moves Reported to USPS

Starting on July 1, 2022, the Secretary of State is required to check NH voter addresses against the US Postal Service change of address system and notify supervisors of the checklist of permanent moves. RSA 654:45

Confidential Voters

The name and address of a voter shall not appear on the checklist at the request of the voter if he or she presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B:4, or if he or she is a confidential voter under RSA 7:46. The name, domicile address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be non-public and not subject to the Right-to-Know law, RSA Chapter 91-A. If it is necessary to establish such a non-public list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the non-public list. RSA 654:25.

Clerks must send confidential voters an absentee ballot automatically. “The program participant shall automatically receive absentee ballots for all elections in the jurisdictions for which that individual is domiciled in the same manner as absentee voters pursuant to RSA 657:15.” RSA 7:46.

Removal Of Voters

The supervisors have a legal duty to keep the checklist as accurate as is practical. RSA 654:28; RSA 654:43. In fulfilling this duty, supervisors must be mindful that in the United States there are in some cases two or more people who have the same name and date-of-birth. When no middle name or only a middle initial is available, identical names and dates-of-birth are even more common. An apparent duplicate record may in fact be records that relate to two different people. The law generally requires that before removing a voter from the checklist supervisors must send a 30-day letter to a voter. To remove the voter the supervisors must either receive a response where the voter affirms that he or she has permanently moved his or her domicile or the voter must fail to respond to the letter. Notices of Transfer, notices of a permanent change of address with the United States Postal Service or the Division of Motor Vehicles, or official death notices permit removal without a 30-day letter because each exception has additional information that ties the event to your voter.

NOTICE OF TRANSFER

A Notice of Transfer is a communication received from an election official that seeks to inform the supervisors of the checklist in a New Hampshire municipality that a person currently registered in their town or ward has registered to vote in a new jurisdiction. In effect, the voter transfers his or her registration to a different jurisdiction. The purpose of a Notice of Transfer is to notify the town or ward where the person previously registered to remove the person

from the checklist.

Notices of Transfer come in many forms. Ideally, they include a photocopy of the voter's handwritten application to register in the new jurisdiction showing that the voter wrote in their previous New Hampshire address as the place where he or she was previously registered to vote.

However, often we will receive only a summary list with just names and dates of birth of people who have registered in a new state. This qualifies as a Notice of Transfer only if the list or a cover letter explicitly states that the voter provided the New Hampshire address or it is otherwise established that the voter provided their prior New Hampshire address.

To qualify as a Notice of Transfer, which authorizes removal of a voter's name without first sending a 30-day letter, a communication must contain:

- 1) The full name of the voter;
 - a) Middle name data is consistent, any of the following are OK:
 - i) Middle name/initial is an exact match;
 - ii) No middle name is listed on the notice or in the voter's NH record;
 - iii) Full middle name on one record matches the initial on the other record
 - b) If the middle name data is inconsistent, do not treat the document as a Notice of Transfer.
- 2) The voter's date-of-birth;
- 3) The voter's address where previously registered is in your town or ward;
 - a) The address need not be a precise match, but must be close enough that no doubt exists that the address in the notice is the address of the voter in your records;
- 4) The person/office that sent the notice must be clearly identified as an election office/official;
 - a) Typically, the list, cover letter, or e-mail will contain the title, office, and contact information of an out-of-state election official;
 - b) A list of voters with no cover letter or clearly identified election official who sent the information does not qualify as a Notice of Transfer;
- 5) A clear statement that the address where the voter was previously registered was obtained from the voter. The following satisfy this requirement:
 - a) A copy of a voter registration form signed by the voter where the voter filled in the address on the live for place last registered/voting;
 - b) A copy of a document signed by the voter verifying his or her voting domicile in the town/ward where he or she currently is domiciled, that also lists your New Hampshire town or ward as a previous voting domicile. Some jurisdictions send such letters to voters identified by programs that identify voters who have moved from one state to another. If the voter signs and returns the form, the out-of-state officials send New Hampshire a copy.
 - c) An explicit statement that the out-of-state election office was provided the New Hampshire address by the voter; or
 - d) A record of contacting the out-of-state election official who sent the communication confirming that the voter's former domicile address in New Hampshire came from the voter. This can be either voter specific or a general report by that office that any notice or list sent

contains only addresses provided by the voter.

Once the supervisors receive a valid Notice of Transfer, RSA 654:36 provides: “If the supervisors of the checklist have received a notice of transfer from any other state or from another board of supervisors of the checklist in the state of New Hampshire through the statewide centralized voter registration database that a voter whose name is on the checklist has been added to the checklist of some other town or city, they shall strike that name from the checklist at the next session for the correction of the checklist.

They shall retain the notice in accordance with RSA 33-A:3-a as proof of their reasoning in striking the name from the checklist.” RSA 654:36; RSA 654:37; RSA 654:44.

A Report of Change of Address is a report communicated to the supervisors of the checklist from one of three entities: the United States Postal Service, the New Hampshire Department of Safety, Division of Motor Vehicles, or the New Hampshire Secretary of State (generally for the USPS or DMV as communicated through the centralized voter registration database). Once the supervisors receive a Report of Change of Address in which the “*voter has permanently changed his or her address to another town, city, or state they shall strike that name from the checklist at the next session for the correction of the checklist.*” RSA 654:36-b. “*As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice as set forth in RSA 654:44.*” RSA 654:36-b.

A United States Postal Service temporary mail forwarding order is not cause for removal from the checklist. A domicile for voting purposes, is not lost because a voter is temporarily absent from his or her home. RSA 654:2.

Prior to removing a voter from the checklist,

the supervisors, with the limited exceptions discussed in this section, must send written notice by mail at least 30 days in advance of the meeting where removal will be decided. RSA 654:44. The supervisors must make the decision to send a voter a 30-day letter by a majority vote of the supervisors of the checklist in a properly noticed public meeting. This requirement does not prevent individual supervisors or support staff from preparing *ElectioNet* to send a letter, nor from doing that work in non-public work sessions. It is only the evaluation of the evidence in hand that supports sending a 30-day letter and the vote by the supervisors that must occur at a formal meeting of the board.

The minutes of the supervisor’s session must include the reason or basis for sending the 30-day letter. For example: “Supervisor *Jane Doe* moved to send the following voters a 30-day letter based on information received that the voter has permanently moved out-of-town. Supervisor *John Doe* seconded the motion. All voted in favor. Voters receiving 30-day letters are listed.”

Any mail sent to a voter at the mailing address the voter last provided, which the United States Postal Service returns indicating that the person has permanently moved should trigger removal of the person’s name from the checklist. If the supervisors have reason to believe the notice is in error, then send a 30-day letter to the voter before removal of the voter’s name from the checklist.

Mail may be returned undelivered for many different reasons. Remove the voter without further notice only if the endorsement on the returned mail clearly indicates the voter was known at that address but has permanently moved. The following endorsements from the Postal Service web site qualify:

- “Attempted – Not Known;”
- “Deceased” (check against NHVRIN death records);

- “Moved, Left No Address;”
- Not Deliverable as Addressed – Unable to Forward;”

<https://pe.usps.com/text/dmm300/507.htm> (see explanation at 1.4.1, last visited 8/4/2022). It is important to verify that the address written on the returned mail exactly matches the voter’s address of record. The Postal Service often will not deliver mail when the address is close, but not exactly correct.

REMOVAL OF DECEASED VOTERS

The supervisors must remove the name of any person for whom they have received an official notice of death. While RSA 654:37 does not define “an official notice of death,” supervisors should consider such an official notice to be:

- a) copy of a death certificate,
- b) burial permit, or
- c) NHVRIN Matched Death Records in *ElectioNet*.

UNOFFICIAL NOTICE OF DEATH

If Supervisors of the Checklist learn of the death of a voter, that has not been officially reported, a special 30-day letter shall be mailed to voter’s last known address. RSA 654:37-a. It is appropriate to wait to see if an official notice of death becomes available.

The Secretary of State will provide a model special 30-day letter, worded as an inquiry seeking to correct or confirm the report of death.

- If no response is received after 30 days, the supervisors remove the voter’s name from the checklist;
- If a response is received confirming the voter’s death, the supervisors may remove the voter’s name from the checklist at the next properly noticed and conducted session.

Medical providers or funeral homes generally promptly report in-state deaths to Vital Records.

However, *ElectioNet* will provide a death notification, through NHVRIN Matched Death Records, only if the name and date of birth is an exact match to the name in the Vital Records death record.

The need to address an unofficial notice of death is usually limited to circumstances where the voter dies while in another state. A Vital Records system exists for information exchange between states that will in many cases, over time, result in an official notice of death in the New Hampshire Vital Records system.

Contacting the family of a recently deceased voter is a sensitive matter. While not required by RSA 654:37-a, best practice is to exhaust reasonable efforts to obtain an official notice of death instead of sending a 30-day letter inquiry. If a supervisor or the clerk personally knows a member of the family of the deceased voter, consider informally seeking that person’s assistance with obtaining a copy of the death or burial certificate. If you can identify the funeral home that served the family, usually reported in an on-line obituary, the funeral home may also be of assistance.

Supervisors should follow-up with the clerk:

- Have you seen a burial permit?
- Have you seen a death certificate?

Supervisors must routinely review their *ElectioNet* reminders screen. If the “NHVRIN Matched Death Records” reminder is bold and states that there are matched death records needing examination, review these records. A single supervisor or assigned support staff may conduct the initial review. Use *ElectioNet* to compare the NHVRIN record with the SVRS (*ElectioNet*) record. If it is more likely than not that the

two records pertain to the same person, use the “match” button to move the voter to pending removal. If it is more likely than not that these are two different people, use the “Not a Match” button to remove the voter from the match list.

As with all decisions regarding the removal of a voter from the checklist, exercise caution to ensure the individual who died is the same person as the voter. Use extra caution when your checklist has two voters with the same name. A common example is a father and son on the checklist who are a “senior” and “junior”.

A vote of a majority of the board of supervisors at a properly noticed public session is required to approve the pending removal and actual removal of the voter from the checklist. Carefully review death removals at the session. Supervisors who did not make the initial review may have knowledge that either confirms that the voter is the person who died or that removal is an error as the deceased is a different person.

DEATH RECORDS REVIEW –ELECTION DAY

Do a review of the NHVRIN Matched Death Records on the day before every election. If the review results in the pending removal due to death of any voter, the pending removal list should be printed and brought to the polling place for review and action by the full board of supervisors.

Upon reviewing and acting to remove a deceased voter on the day of an election, the supervisors must note on all copies of the official checklist that the voter is “deceased” and then place the supervisor’s initials next to the voter’s name.

“Whenever there is filed in the office of the clerk an official notice of the death of any person or persons of the age 18 years or over or the clerk receives notice of a death record of such person or persons under RSA 5-C:4, V, the town or city clerk shall notify the supervisors of the checklist of said deaths....” RSA

654:37.

“The Secretary of State shall compare information contained on each death record received by the division of vital records with information contained in the statewide centralized voter registration database and submit to the state registrar a list of every city or town that has a registered voter matching the decedent’s information. Upon receipt of a death record, the state registrar shall transmit notice of the death to the clerk of the city or town of residence of the decedent and to each city or town listed by the Secretary of State for the decedent pursuant to paragraph IV.” RSA 5-C:4.

There is sometimes a lag between a voter’s death and the town’s receipt of an official notice of death. Therefore, immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If unofficial sources identify a voter as having passed away, the supervisors should work with the moderator to flag that voter’s name on the checklist with “notify moderator.” The moderator must instruct the ballot clerks to notify the moderator if anyone checks in using that voter’s name and seeks to obtain a ballot. If someone seeks to vote using that name the moderator must sort out whether the unofficial information on death was in error or if the person seeking a ballot is committing impersonation voter fraud. This practice of flagging the checklist does not substitute for the requirement that in order to remove the voter from the checklist you must have an official notice of death or confirm the death with a 30-day letter.

The supervisors must remove the name of any person who relinquished his or her U.S. citizenship. Relinquishment of citizenship is very rare.

NOTICE OF DEATH –VOTER CHECKLIST REPORT

RSA 5-C:4 requires that clerks review the list of deaths for their city or town reported in the New Hampshire Vital Records Information Network “Voter Checklist Report” to search for possible matches with voter records. When a death notice exactly matches the name, date of birth and residence town/city of a voter on the checklist, *ElectioNet* sends a notice of the death to the supervisors of the checklist.

A new law requires that if the information does not match on the name, date-of-birth, and residence, but is a partial match, the Secretary of State and the clerk must send a notice of partial match of a death record to the supervisors. Best practice, the clerk prints the “Voter Checklist Report” from NHVRINPLUS and provides it to the Supervisors of the Checklist before each session.

If the records are determined to more likely than not be two different people, no further action is required. If the records likely match, but there is no official verification that the death and voter records relate to the same person, the clerk and supervisor must follow the procedures for an unofficial notice of death. RSA 5-C:4, IV; RSA 654:37, RSA 654:37-a

Supervisors to Review Property Transfers

RSA 74:18 was revised to require towns and cities to provide the supervisors of the checklist with copies of the Inventory of Property Transfers. This law requires the person/entity purchasing real property to file an inventory of property transfer with the town for property tax purposes with 30 days of recording the deed or transfer of real estate with the county register of deeds. The inventory contains information on the property, the previous owner, and the new owner. The supervisors are to use the

information “to facilitate periodic maintenance of the voter checklist.” RSA 74:18

Where the Inventory of Property Transfer makes it more likely than not that a registered voter has moved out-of-town and no transfer of voter registration notice has been received, it is appropriate to send the voter a 30 day letter. Not all Inventory of Property Transfers will be evidence that the a voter, who is the prior owner, has moved. Transfers may involve shifting ownership interests to family or to a trust in a circumstance where the voter continues to be domiciled at the same address. Transfers may involve land with no residence on it or land that a voter did not live on.

The first step is to check the name of the previous owner(s) against the checklist. If the name(s) is not on the checklist, no further action is required.

If a previous owner(s) is listed on the checklist, review the information on the Inventory and any other information known to the supervisors. If it is more likely than not that a registered voter has moved out-of-town, send a 30 day letter. Remove the voter from the checklist only if the voter does not respond to the 30 day letter with evidence the voter continues to be domiciled in the town or ward.

The name of the new property owner(s) on the Inventory is evidence supporting a claim of domicile at that address by those owner(s) if they apply for voter registration. Otherwise, no action is required regarding the new owner(s).

A blank Inventory of Property Transfer form is available on the Department of Revenue Administration website at:

<https://www.revenue.nh.gov/forms/2016/documents/alt-pa-34-v1-0.pdf> (Last Visited 8/4/2022).

Party Affiliation Changes

A voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a primary up to the day of the primary election. The board of supervisors must hold at least one meeting prior to the filing period for the change of registration of legal voters. RSA 654:34. A voter may also apply to the clerk, during the clerk's usual office hours, to change party affiliation. The clerk shall deliver any application for party change submitted between the first Wednesday in June and the day before the state primary election to the supervisors, who shall hold the application and make the change following primary election day. RSA 654:34-a. An application to change party submitted to the clerk on or after the first Wednesday in June will not change the voter's party affiliation at the primary held in September. The same restriction on changing party affiliation applies between the start of the filing period and the presidential primary. **The restriction does not apply to town, school district, or village district elections because those are non-partisan elections – there is no primary election.**

CHECKLIST CHANGE OF ADDRESS

If a voter has reported an address change to the ballot clerks, who have noted the new address on the checklist, indicating the voter moved within the town/ward, the supervisors of the checklist must note the change of address on the person's voter registration form and enter it in *ElectioNet*. RSA 659:13.

SESSIONS OF SUPERVISORS

ELECTION DAY REGISTRATION

Any person may register to vote with the supervisors of the checklist at any election (i.e., primary and general elections, town, city, school district and village district elections). Applicants must meet all the qualifications

required by RSA 654:12, as judged by the supervisors. RSA 654:7-a.

Best practice is to provide an opportunity for voters to register in advance of or at an annual village district meeting that elects officers by unofficial ballot or from the floor, **a town or school meeting or SB2 deliberative session.**

For the purposes of this section "election" refers to any voting at which absentee ballots are provided. "Meeting" refers to the deliberative session of the town, school, or village district.

STATE ELECTIONS

The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election). Hold the session 6 - 13 days before the election. This session must be for no less than 30 minutes but the supervisors may extend the session for additional hours. Except for the provisions relative to election day registration, no additions or corrections may be made to the checklist after that session is over. RSA 654:27.

PRESIDENTIAL PRIMARY ELECTIONS

In addition to election day registration and the session required above, the supervisors must also hold one session for additions and corrections to the checklist prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m. The Secretary of State determines and will announce the dates of the filing period for the Presidential Primary. RSA 653:9; RSA 655:47.

STATE PRIMARY ELECTIONS

Prior to the state primary election, the session shall held be on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00

p.m. and 7:30 p.m. The supervisors may extend the session to end at a later time, for any session. RSA 654:32; RSA 655:47, II.

LOCAL ELECTIONS

For all town, city, village district and school district elections, supervisors must hold a session on Saturday 6 – 13 days prior to the election and shall also hold one session on the day immediately prior to the first day of the filing period. In towns operating under RSA 40:13, known as the SB2 form of annual meeting, also hold a supervisors' session on the Saturday 6 - 13 days prior to the deliberative session. Supervisors must register voters on election day of local elections. RSA 669:5; RSA 44:5; RSA 670:3.

NO RESTRICTIONS ON OTHER SESSIONS

Supervisors should hold as many meetings as necessary to allow citizens in the community an opportunity to register, change addresses, or change party affiliation. In addition to the required sessions, supervisors may meet at any time prior to the final pre-election session required by law, as long as they post or publish notice of the meeting. RSA 91-A; RSA 654:27; RSA 654:32. No additions, removals, or corrections to the checklist shall be made after the closure of your city or town's final session for correction of the checklist. RSA 654:27; RSA 654:28; RSA 659:12; RSA 669:5. Qualified individuals may register on election day.

Supervisors should meet and resolve pending additions and pending removals – which appear in System Reminders of *ElectioNet*.

The board of supervisors of the checklist are a public body subject to New Hampshire's Right-to-Know law. RSA Chapter 91-A. Whenever a quorum convenes for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters, these actions must be taken in a properly noticed public meeting. A quorum is two or more members of a three person Board. RSA 91-A:2. Minutes of the

meeting must be taken and made available to the public on request. Minutes must contain “[t]he names of the members who made or seconded each motion.” RSA 91-A;2, II.

ElectioNet provides a report to use to create minutes of each session. The Attorney General's Memorandum on the Right-to-Know law is an excellent guide. <https://www.doj.nh.gov/civil/documents/right-to-know.pdf>. (Last Visited 8/4/2022). The document is also available in *ElectioNet* > Help>Instructions.

CONSOLIDATING SESSIONS

Whenever there is more than one required session within a 21-day period, the first required session may serve to fulfill the requirements of the remaining sessions. *Example:* Multiple state and municipal elections within a short period. RSA 654:27.

POSTING CHECKLISTS

No later than the 4th Tuesday before any state election, the supervisors shall post a current checklist at the town or city clerk's office or at town hall. At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist at the clerk's office or at town hall. To save paper and ink, this list may be in the form of an “Alpha List” from *ElectioNet* with a separate certification page signed and attached. Each posted checklist shall state the date, hour, and place of the upcoming session for checklist additions and corrections. RSA 654:26; RSA 654:27; RSA 654:33. On each posted checklist, the board of supervisors shall subscribe an oath as required by RSA 654:29. Checklists printed from *ElectioNet* contain the required oath language.

The official checklist used at any election shall contain the full name, domicile address, mailing address, and party affiliation, if any, of each voter on the checklist. The Secretary of State is required to issue checklist guidelines, which include the minimum

content of the checklist. A checklist printed from *ElectioNet* satisfies these requirements. RSA 654:25.

ADDITIONS TO POSTED CHECKLISTS

Except for the additions made on election day, any changes shall be made to the previously posted checklist on or before midnight on the succeeding Friday (following Friday – see the New Hampshire Political Calendar). Notice shall also be given to the town or city clerk. RSA 654:28; RSA 654:29. Supervisors may also print, certify, and post an updated checklist to fulfill this requirement.

THE VOTER REGISTRATION FORM

The supervisors must make sure they have a sufficient supply of the Voter Registration Form for themselves and the city or town clerk. Use the July 2016 version of the Voter Registration Form. Page 344.

CERTIFYING NOMINATION PAPERS

Individuals seeking to be placed on the general election ballot as a candidate who is not nominated by a political party may use nomination papers. The candidate must submit completed nomination papers for certification to the supervisors in the town or city in which the voter is registered no later than 5 p.m. on the Wednesday 5 weeks prior to the State Primary Election. To be valid, the voter must sign and date the nomination paper in the year of the election. RSA 655:40; RSA 655:40-a; RSA 655:41.

The supervisors are required to verify that the person signing the nomination is a registered voter in their town/ward. The supervisors must have the certified nomination papers available for the candidate no later than 5 p.m. on the Wednesday 2 weeks prior to the primary. RSA 655:41-3. They must provide notice of meetings to verify nomination papers in a manner consistent with RSA 91-A, which requires that at least two public notices be placed 24 hours prior to the meeting. City clerks may perform the

responsibilities of the supervisors of the checklist relating to certification of petitions. RSA 655:41, II.

CHECKLISTS FOR ADDITIONAL POLLING PLACES

The supervisors must prepare a list of the voters entitled to vote in the additional polling place and no later than 14 days prior to the election they must post a copy at the town or city clerk's office or at the town hall. They must also give the town clerk 2 copies of that checklist. RSA 658:12. Supervisors can assign voting districts in *ElectioNet* and print the required checklists using the system.

Providing The Checklist To The Public

New Hampshire law provides that any person can obtain copies of:

1. The “public checklist” (the checklist reflecting the most recent additions and/or removals authorized by a vote of a majority of the Supervisors of the Checklist); and
2. The “marked checklist” used at a prior election. Clerks are required to retain a copy of the marked checklist from each state and local election as a public record for 7 years.

“Public checklist” means the checklist required by RSA 654:25 which contains the names of voters who by law are to be listed on a checklist available to the public in accordance with the restrictions established by this section.” RSA 654:31, I(d).

The law prescribes a fee for a copy of the most recent “public checklist,” for a town or city in the amount of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. RSA 654:31, II. The Right-to-Know law explicitly provides that when a statute establishes a fee by law, that fee applies, not the usual “actual cost of providing the copy.” RSA 91-A:4,

IV(d).

“Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.” RSA 91-A:4, IV.

The statute setting a fee for the “Public checklist” does not apply to the fee for a copy of a “marked checklist.” Therefore, for the marked checklist, the town’s or city’s usual fee per page for a paper copy of a public record applies. RSA 91-A:4, IV. “[T]he person requesting the copy may be charged the actual cost of providing the copy . . .” RSA 91-A:4, IV.

The marked checklist does not fall within the definition of a “public checklist” established in RSA 654:31, I(d). That section addresses the current checklist reflecting the “most recent” additions and removals made by the supervisors. The marked checklist from past elections is an historical record of who was a registered voter as of the end of that election day and who is marked as receiving a ballot or voting by absentee ballot. The “public checklist” and a “marked checklist” are two distinct governmental records. Different fees apply for a copy. RSA 91-A:4; RSA 654:31; RSA 659:102.

See chart “Right to Checklist and ElectioNet Information” on page 350.

The supervisors are required to provide copies of the checklist, at the fee set by statute, to those who request it. Address all pending items that appear in System Reminders of ElectioNet prior to providing copies of the checklist. However, the Right-to-Know law requires that a public record that is immediately available be provided immediately. Do not deny a person making a request for a copy of the checklist in person because there are pending changes, but inform the person that the checklist they are receiving is not current. Do not unreasonably delay a request received by mail while corrections are made.

The supervisors may only provide checklist information for their own town or city. The supervisors shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs.

The information on the checklist that supervisors of the checklist may provide, upon payment of the fee, includes the voter’s name, street address, mailing address, town or city, and party affiliation, if any, of every registered voter in the town or city ward. Date (or any date range) of a voter’s registration is not public information. New Hampshire Constitution, Part 1, Article 8; RSA 654:25; RSA 654:31; RSA 654:31-a; RSA 654:45; RSA 659:13; RSA 659:102.

CHECKLIST AVAILABLE IN ELECTRONIC FORM

An amendment to RSA 654:31, II requires that the supervisors of the checklist and clerk shall provide the current checklist in either paper or electronic form, in accordance with the person requesting the checklist’s preference. ElectioNet allows selecting the PDF (can be provided in electronic form or printed to paper), XLS (Excel – an electronic file), CSV (Comma Separated Values – an electronic file) or HTML (Web page view, can be printed to paper). The fee for the checklist remains the same and applies to both paper and electronic copies of the checklist.

Generally, provide an alpha voter list. An election must be pending in ElectioNet for the system to produce a checklist with bar codes for the voter ID. An alpha voter list contains the same information as the checklist, except no bar code. The bar code contains only the voter ID number, which is also printed as a number. A checklist with the barcode uses more pages for the same number of voters. Neither the electronic

checklist nor the alpha voter list include voter history.

“In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist or city or town clerk shall furnish a physical copy or an electronic copy of the most recent public checklist of their town or city to any person requesting such copy. If a person requests an electronic copy, the supervisors of the checklist, or the city or town clerk, shall notify the person requesting the copy of the electronic format options available from which the person requesting may choose. The supervisors of the checklist or city or town clerk may only provide checklist information for their town or city. The supervisors of the checklist or city or town clerk shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist or city or town clerk shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist or city or town clerk may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.” RSA 654:31

Refer to *ElectioNet* under *Help*> *Instructions* > *Voter Information - Public or Private*. Provide public records in the form the person requests, when doing so is reasonably practical. *Green v. School Administrative Unit* #55, 168 N.H. 796, (N.H. 2016).

Upon request, the Secretary of State shall provide a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the state to a political party, political committee, or candidate for county, state, or federal office. In addition, upon request, the Secretary of State shall provide a candidate for county, state, or federal office a list of the name, street address, mailing address, town or city, voter history, and party affiliation, if any, of every registered voter in the candidate's district.

Voter history must include voting in town, school, and village district elections. The Secretary of State shall charge a fee of \$25 plus \$.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges. The Secretary of State must charge and collect on behalf of the supervisors of the checklist of each city and town the amount that such supervisors would have charged had the public checklist been purchased from them. The Secretary of State shall remit to the city or town the amount collected on its behalf. RSA 654:31, IV.

It is a crime to knowingly use the checklist information for commercial purposes such as selling or offering for sale any property or service unrelated to an election or political campaign. RSA 654:31. For-profit corporations are not prohibited from purchasing checklists, but may not use the information for commercial purposes. Supervisors are not responsible for enforcing this law, but may want to inform a person purchasing a copy of the checklist of this law.

Copies of the checklist may be sold to charitable non-profit corporations that request them.

Except for fees collected on behalf of a city or town, any fees the Secretary of State receives are to be deposited into the election fund that is used for election related purposes such as voter and election official education. RSA 654:31, VI.

The non-public checklist, that is the list of voters who are under protective orders pursuant to RSA 173-B:4 or who are confidential voters under RSA 7:46, may not be provided to anyone, other than law enforcement, unless there is a court order requiring disclosure.

Election Day Duties

ATTENDANCE AT ELECTION

Supervisors shall be present at the opening of each election at which a checklist is used and shall remain in attendance until the close of

the election. RSA 659:10.

REMOVE DECEASED VOTERS PRIOR TO OPENING POLLS TO VOTING

Supervisors are in public session on election day. Prior to the opening of the polls, they must review and, at the opening of the polls, act on any NHVRIN official death notices appearing on the reminders screen, manually noting on all copies of the checklist that a voter has been removed and placing their initials next to the voter's name. Request the clerk to run the "Voter Checklist" report from NHVRINPLUS. Supervisors need to give the clerk a range of dates for this report. Use the date of the most recent report you reviewed through the day the report will be run, ideally on the Monday just before election day.

Immediately prior to election day and to the extent practical on election day, the supervisors should review local obituaries and other unofficial sources of notices of death. If the supervisors identify a voter as having passed away, the supervisors should work with the moderator to flag that voter's name on the checklist with "notify moderator." The moderator must instruct the ballot clerks to notify the moderator if anyone checks in seeking to obtain a ballot using that voter's name. If someone seeks to vote using that name the moderator must sort out whether the unofficial information on death was in error or if impersonation voter fraud is being attempted

PRIMARY ELECTION DAY PARTY CHANGES

Undeclared voters may, after declaring a party and voting in a primary, sign the list of undeclared voters created in *ElectioNet* which is provided at the polls to return to undeclared status on election day. If a voter registered undeclared on election day, he or she can sign the Return to Undeclared form or list (pages 438 & 439). The Return to Undeclared list shall be retained by the board of supervisors. RSA 654:34, II.

No person who is already registered to vote, whether his or her party membership has been previously registered or not, shall affiliate with a party or disaffiliate from a party between the first Wednesday in June and the day before the state primary election. RSA 654:34, IV.

Voters who have declared an affiliation must change their affiliation before the first Wednesday in June or they are limited to voting in the primary of the party with whom they are affiliated on primary day. A declared voter may change his or her affiliation on primary day, but then he or she may not vote in that primary. RSA 654:34.

ELECTRONIC POLL BOOKS

Cities and towns may use electronic poll books for voter registration and check in at a local election only if the electronic poll book program has been recommended for approval by an evaluator approved by the Secretary of State and the system has been approved by the Secretary of State. The use of electronic poll books must follow the requirements issued by the Secretary of State. See further information at: <https://sos.nh.gov/electronic-poll-books/> (Last Visited 8/4/2022). RSA 652:27.

Some cities and towns have received approval for the limited use of electronic poll books in parallel with the statutory paper checklist process. No town or city may use a parallel system without the approval of the Secretary of State.

Under a parallel processing system, election officials must simultaneously fulfill all the requirements of law, as if no electronic poll book is in use. Officials typically do this by having additional appointed assistant election officials who use the check-in receipt issued by the electronic poll book to mark a paper checklist, as if the voter had checked in at the paper checklist. Ballot clerks staffing the electronic poll book issue the voter a ballot and the voter marks and

casts that ballot while the second team of election officials receive the receipt and mark the paper checklist. RSA 652:27 was amended to allow a lag of no more than 30 minutes for the paper checklist to be marked following the voter being issued a ballot. SB 364 (2022).

Election officials report that this parallel use significantly speeds up voter check-in for previously registered voters and is helpful for determining the number of voters who received a ballot at the end of the night.

Election Day Registration

Any person qualified as a voter may register to vote with the supervisors on election day at any election. RSA 654:12

Any unregistered person who wishes to vote in any election shall proceed directly to the supervisors of the checklist to register in the polling place. Individuals must be 18 years of age or older and must present proof of identity, age, domicile, and citizenship or complete a Qualified Voter Affidavit to prove identity, age, and/or citizenship. An applicant without proof of domicile with them must complete a Domicile Affidavit.

PROCEDURE

- (1) Applicant for registration goes to the supervisors of the checklist. Supervisors check to ensure the individual is not already registered and on the checklist.
- (2) If the individual is already registered to vote, but is not in the correct voting place, the supervisor will direct the individual to the correct town or ward.
- (3) Applicant presents proof of qualification as a voter for that polling place.
- (4) Either the applicant or supervisor fills out a voter registration form (July 2016 version) by printing legibly. The applicant is directed to

read the affidavit and sign the affidavit section of the form. RSA 654:12.

If the applicant does not have proof of identity, age, or citizenship with him or her, the applicant completes a Qualified Voter Affidavit. If the applicant does not have proof of domicile with him or her, the applicant completes a Domicile Affidavit.

- (5) An applicant who completes a Qualified Voter Affidavit to prove identity must be sent to the “No Photo ID – Start Here” table. The applicant must have a photo taken in order to register to vote. The photo must be attached to the Qualified Voter Affidavit. A notation must be made on the Challenged Voter Affidavit indicating that the photo has been attached.
- (6) If an applicant with documents proving qualifications also offers a Qualified Voter or Domicile Affidavit, do not add the affidavit to the voter’s record or enter the affidavit in *ElectioNet*. Affidavit use documented in *ElectioNet* causes follow-up that is unnecessary if the voter presented proof documents.
- (7) Once the registration form is completed, the supervisor directs the voter to the ballot clerks. By providing a New Voter Authorization Form or otherwise communicating with the ballot clerks, ensure the voter’s name, address, and party affiliation get written on the checklist. See sample New Voter Authorization Form at page 341.

New Applicants for Voter Registration with No Photo ID

An applicant for registration who does not have photo identification must have a photograph taken at the polling place. Only

one photograph shall be taken for the purpose of registering a new voter without a photo ID and providing the voter with a ballot. The photograph must be attached to the Qualified Voter Affidavit and a notation made on the Challenged Voter Affidavit used because the voter does not have photo ID explaining that the photo has been attached to the Qualified Voter Affidavit. RSA 654:12, III-a, RSA 659:13. If the voter has a religious objection to being photographed and completes an Affidavit of Religious Objection, no photograph is taken. RSA 659:13.

If the applicant is applying at the clerk's office or a supervisor session prior to election day using a qualified voter affidavit to prove identity, the official receiving the application must take the applicant's photo.

On election day, the Supervisors, the Moderator, and the ballot clerks should coordinate how an election day registrant who does not have photo ID will be issued a ballot. Most polling places use a "New Voter Authorization Form" issued by the Supervisors to the Ballot Clerks. The sample form has been revised to include a section where the supervisor can document that a photo has been taken and is attached to the voter registration Qualified Voter Affidavit. Page 321.

The Moderator may want to have:

- The greeter for the polling place send a person who needs to register, but does not have photo ID directly to the "No Voter ID – Start Here" table.

The staff at the "No Voter ID – Start Here" table, when the photo is taken for registration, assist the applicant with also completing the Challenged Voter Affidavit that will be required to pick up a ballot without photo ID and to issue the voter the "Voter ID Law Explanatory Document." Or

- The Supervisors oversee the newly registered voter completing a Challenged

Voter Affidavit for no ID and issuing that new voter the Voter ID Law Explanatory Document.

Either option will allow the newly registered voter to check in and obtain a ballot more easily. It will also minimize delays at the checklist check in table.

Ensure that any voter without Photo ID is issued a copy of the one page Voter ID Law Explanatory Document. This is the one page version of #5-2022, which is posted at the polling place. This document is available in PDF in *ElectioNet* > Help > Instructions.

Challenges Of Voters

Challenges to a voter's eligibility cannot be made at the voter registration table or directly to the supervisors. A challenge to the identity, age, citizenship, or domicile of a voter is made to the moderator. The moderator will bring challenges based on age, citizenship, or domicile regarding an in-person or absentee voter to the supervisors. The supervisors of the checklist must, using an "Asserting a Challenge" form, rule whether the challenged voter is qualified or not qualified. RSA 659:27; RSA 659:27-a; RSA 659:30; RSA 659:31; RSA 659:32.

The moderator decides challenges on other grounds, such as a claim that the voter has already voted in the election.

If the election officials decide that the challenge is valid and that the voter is not qualified, they should educate the voter as to where he or she should be voting or why he or she is not eligible to vote in New Hampshire. A voter whose name is on the checklist may, nonetheless, vote if the voter completes the Challenged Voter Affidavit.

If election officials believe that a voter who is challenged and signs a Challenged Voter Affidavit is nonetheless voting wrongfully, report this to the Attorney General's Office.

CERTIFYING THE CHECKLIST

Before the election, the supervisors must

certify that the corrected checklist according to their best knowledge contains (fill in number) of names of those persons, “*who are by actual domicile legal voters*” in the town or ward. A checklist printed from *ElectioNet* has a printed section for this purpose. RSA 654:29. Provide two certified copies to the clerk. The clerk and moderator must use those certified copies as the checklist for the election. Only one certified checklist is used at polling places where a ballot counting device is used.

After closing of the polls to voting the moderator and the clerk must certify the checklist marked by the ballot clerks under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered.

The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56.

Post-Election Day Duties

PRESERVATION OF CHECKLIST AFTER THE ELECTION

Within 90 days after the closing of the polls for each regular state general election and each presidential primary election, forward one marked copy of the check-in checklist used at the election to the State Archives in Concord: State Archives, 9 Ratification Way, Concord, New Hampshire 03301- 2410. Please note that this law does not apply to the state primary. RSA 659:102.

After every election, a marked copy of the checklist must be preserved by the town or city clerk as a public record, for a period of at least 7 years. RSA 33-A:3-a; RSA 659:102.

CORRECTING DATA FILES AND ENTERING INFORMATION FOR STATE FOLLOW-UP LETTERS

After each state election, the supervisors shall use the marked checklist from such election to correct the data in the records of registered voters in *ElectioNet*. Supervisors must start by entering voters who registered on election day into *ElectioNet* first, indicating if they:

- Used Domicile Affidavit to prove their domicile and/or;
- Used a Qualified Voter Affidavit (page 321) for purposes of identity under “Form of ID – Proof of Identity”.

Supervisors should begin the barcode scanning process by scanning in the voter history of those who voted after signing a Challenged Voter Affidavit (page 322). The clerk must make available to the supervisors the completed Challenged Voter Affidavits used because the voter did not have photo ID from election day to enable the supervisors to verify that if a Challenged Voter Affidavit was used the “CVA” box on the checklist has been marked. After this work has been completed, the supervisors must finish scanning the barcodes of all other voters who received a ballot on election day. Return the Challenged Voter Affidavits to the clerk. RSA 654:12; RSA 654:30.

VOTING HISTORY IN TOWN, SCHOOL, AND VILLAGE DISTRICT ELECTIONS

The Secretary of State is now required to provide political parties, political committees, and candidates for county, state, or federal office who purchase lists of registered voters, with each voter’s history including each “municipal election” for the preceding 2 years. RSA 654:31, IV. This requires the supervisors of the checklist to scan or enter the history of voters into *ElectioNet*. Scanning in history has been required for city and town elections for some time. Where school elections are held simultaneously with town elections, it will be necessary for the clerk to include the school district in the name of the election. Where

school district or village district elections are held on a separate date from the town election, the supervisors and the clerk must collaborate to enter the election into *ElectioNet*. The supervisors must scan or enter the history of the voters who participate in the school or village district election into *ElectioNet*. Many supervisors do this currently. Those who have not been documenting the voting history for separate school and village district elections must start doing so for all elections held starting July 19, 2022. (HB 1010).

REVIEW OF VOTERS WHO SIGN A CHALLENGED VOTER AFFIDAVIT

The law requiring the Secretary of State to send a letter to certain voters who use a Challenged Voter Affidavit because the voter did not have photo identification provides:

“The secretary of state shall conduct an inquiry regarding any letters mailed pursuant to subparagraph (a) that are returned as undeliverable by the United States Post Office and of voters who were mailed letters under subparagraph (a) and have not responded to the Secretary of State. The inquiry may include consulting with, and examining public records held by, municipal officials, which contain information relevant to a person’s qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the letters. After such inquiry, the Secretary of State shall prepare and forward to the attorney general for investigation a list of those people whose identity or eligibility to vote could not be confirmed. The attorney general shall cause an investigation to be made to determine whether fraudulent voting occurred.” RSA 659:13, IV(b).

The Secretary of State will provide the supervisors of the checklist with a list of voters who signed Challenged Voter Affidavits (CVAs) in order to obtain a ballot and did not respond to the Secretary of State’s follow-up letter. The Secretary of State will ask the supervisors of the checklist to provide any relevant input regarding the identity of voters listed as signing a CVA. In some cases, the Secretary of State will request

a copy of the voter’s voter registration form and any affidavits the voter signed.

These documents, in particular the voter’s signature, are helpful to the Secretary of State and Attorney General in resolving the validity of the voter.

RETENTION OF VOTER REGISTRATION FORMS

All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist. Any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place shall be filed at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted. RSA 654:13-a.

INTERSTATE COMPARISON OF RECORDS

The Secretary of State is authorized to enter into agreements with other states to compare voter records to identify voters who have moved and should be removed from New Hampshire checklists or who may have voted in two states in the same election. RSA 654:45, VIII; Laws of 2016, 175:2.

A voter’s date-of-birth and full middle name are valuable in any effort to compare voter registration records in two different jurisdictions. Cases exist where two different people in the United States have the same name and date-of-birth.

Supervisors should use legal means to obtain and enter voters’ missing dates of birth and full middle names, either from existing voter registration files or by asking the voter to provide the information voluntarily.

When matching names and dates of birth are found as a result of this program, and other information is obtained that makes it reasonably certain the two matched voters are the same person, the HAVA staff will

follow-up with local election officials so that they can send 30-day letters.

RECORDING USE OF OUT-OF- STATE ID

When a voter obtains a ballot with either an out-of-state driver's license or identification card, the ballot clerk shall record the state of issuance on the checklist. Within 30 days of the election, a supervisor of the checklist, or someone designated by the supervisors, shall record the state of issuance of a voter's driver's license or identification card in *ElectioNet*. RSA 659:13, I(b).

YEAR-ROUND REMOVAL OF NAMES FROM THE CHECKLIST

The supervisors shall send notices by mail to the last known addresses of the persons whose names are being considered for removal, stating the reason for removal. Such notices shall also state the time and place at which the board of supervisors shall meet to consider the removal of that person's name. The date shall be at least 30 days after the supervisors send notice. RSA 654:38; RSA 654:39.

Supervisors of the checklist are obligated to identify the physical address of each voter and ensure that it is in the jurisdiction in which the voter is registered.

When supervisors have reason to believe a voter has moved out of the jurisdiction, the following represent justifiable reasons for sending a 30-day letter:

- A voter appears to have been living in a single family home that others have moved into and registered to vote.
- Supervisors have heard from a reliable source that the voter has moved out of town.
- Supervisors cannot identify a physical address for the voter.
- Mail has been sent by the town/city, the clerk, or the supervisors to the voter at the mailing address in the

voter's voter registration record and it has been returned by the United States Post Office as undeliverable.

- If the Post Office mark reports the person has permanently moved, the voter can be removed without a 30 day letter.
- A notice of transfer, notice of address change, or USPS national change of address permanent address change has been received in circumstances where it is more likely than not about the voter, but not reasonably certain that the notice pertains to the voter.
- A reliable source provides mail sent by the source to the voter at the mailing address in the voter's record which has been returned by the United States Post Office as undeliverable. If the Post Office mark reports the person has permanently moved, the voter can be removed without a 30-day letter.

The person whose name is being considered for removal shall have a chance, either in person or in writing by mail or messenger, to give the reasons why his or her name should be kept on the checklist. The supervisors shall not remove a person's name from the checklist until after the completion of such person's written or oral statement, if they elect to make one. The supervisors shall keep records as proof of compliance with the notice requirement. RSA 654:44.

REPORTS OF TRANSFER

If the supervisors receive notice of a transfer from another board of supervisors, they shall remove that name from the checklist at the next session for the correction of the checklist. The notice shall be retained for at least one year as proof of removal of that name. When the voter registers in another New Hampshire town or ward, *ElectioNet* maintains this information automatically. RSA 654:36. It is helpful for clerks in larger

towns and cities that have multiple wards if the clerk of the new residence indicates the voter's previous street address on the voter registration form. See further guidance on notices of transfer at page 205.

NOTICE OF PERMANENT CHANGE OF ADDRESS

Supervisors shall also either remove a person's name from the checklist or send the person a 30-day notice letter if notice is received from the United States Post Office, the Department of Safety, directly or through *ElectioNet* that the person has permanently moved from the town or ward where he or she is registered to vote. RSA 654:36-b provides:

“If the supervisors of the checklist receive a report from the United States Postal Service or the (N.H.) department of safety directly or as communicated by the Secretary of State through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist... As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice...”

NATIONAL VOTER REGISTRATION ACT

With the implementation of the National Voter Registration Act (motor voter law), town and city clerks are receiving notices of transfer from several states. If a person who is a resident of another State has signed a voter application in that State, and the report of transfer is received, the supervisors are authorized to remove that name from the checklist.

If the individual did not intend to have his or her name removed from the New Hampshire checklist, he or she may reapply and sign a new voter application upon his or her return to New Hampshire. A person may have only one voting domicile and therefore should

only be registered to vote in one town or ward at any one moment in time.

However, as the law does not require a voter to notify election officials when he or she permanently moves, it is not a violation by the voter when his or her name is found on the checklist in two or more different towns, cities, or states. It is the responsibility of election officials to work together to sort out where it is more likely than not that the voter is currently domiciled. In many cases federal and state law require election officials to confirm the permanent move with the voter before removing him or her from the checklist.

SUPERVISORS TO REVIEW PROPERTY TRANSFERS

RSA 74:18 was revised to require towns and cities to provide the supervisors of the checklist with copies of the Inventory of Property Transfers. This law requires the person/entity purchasing real property to file an inventory of property transfer with the town for property tax purposes within 30 days of recording the deed or transfer of real estate with the county register of deeds. The inventory contains information on the property, the previous owner, and the new owner. The supervisors are to use the information “to facilitate periodic maintenance of the voter checklist.” RSA 74:18. HB285 (2021).

Where the Inventory of Property Transfer makes it more likely than not that a registered voter has moved out-of-town and no transfer of voter registration notice has been received, it is appropriate to send the voter a 30-day letter. Not all Inventory of Property Transfers will be evidence that the voter, who is the prior owner, has moved. Transfers may involve shifting ownership interests to family or to a trust in a circumstance where the voter continues to be domiciled at the same address. Transfers may involve land with no residence on it or land that a voter did not live on.

The first step is to check the name of the previous owner(s) against the checklist. If the name(s) is not on the checklist, no further action is required.

If a previous owner(s) is listed on the checklist, review the information on the Inventory and any other information known to the supervisors. If it is more likely than not that a registered voter has moved out-of-town, send a 30-day letter. The decision to send a 30-day letter must be made in a properly noticed public session, by motion and vote, and documented in the minutes of that meeting. Remove the voter from the checklist only if the voter does not respond to the 30-day letter with evidence the voter continues to be domiciled in the town or ward.

The name of the new property owner(s) on the Inventory is evidence supporting a claim of domicile at that address by those owner(s) if they apply for voter registration. Otherwise, no action is required regarding the new owner(s).

A blank Inventory of Property Transfer form is available on the Department of Revenue Administration website at:

<https://www.revenue.nh.gov/forms/2016/documents/alt-pa-34-v1-0.pdf>

(last visited 8/4/2022).

VERIFICATION OF CHECKLIST

The supervisors of the checklist shall verify the checklist:

- On petition of 50 registered voters or 5% of the registered voters, whichever is less, subject to approval after a public hearing by the Ballot Law Commission.
- On petition of a majority of the board of supervisors filed with the Secretary of State no later than the eighth Friday after a state election, subject to approval after a public hearing by the Ballot Law Commission.

- In 2031 and once every ten years thereafter.

RSA 654:38 further describes the procedure for verification of the checklist. RSA 654:39.

REQUEST TO CORRECT THE CHECKLIST

Any person can, at any time, submit an application for correction of the checklist to the supervisors for their consideration at their next meeting. This, in effect, allows anyone who believes another person who is not qualified as a voter in the town or ward is on the checklist to report this to the supervisors. The supervisors should investigate and if they determine it is warranted, send a 30-day letter, notice of removal to the person. This will require the person to affirm his or her qualifications as a voter. RSA 654:36-a; RSA 654:28.

RSA 654:36-a establishes the following procedure for processing a request to correct the checklist:

"I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist." RSA 654:36-a.

This law requires that a request to remove a person from the checklist be based on

evidence. The supervisors of the checklist must evaluate whether, if true, the information provided in the request would make the person listed in the request disqualified as a voter in the town or ward.

The supervisors must determine if the evidence provided constitutes reasonable evidence. For example, a letter stating “please remove the following people from the checklist” and listing one or more names does not constitute evidence that these people are no longer qualified as voters. Similarly a letter stating: “please remove John Doe from the checklist because I think he might have moved,” does not constitute evidence, it merely states an unsupported suspicion. But, a letter stating, “Please remove John Doe from the checklist, as he used to be my neighbor and he moved to Florida in June” does state evidence.

If a reasonable person reading the request for correction of the checklist would conclude that, if found true, the evidence in the request would prove the person was no longer qualified as a voter, the 30-day notice letter must be sent.

Decisions Subject To Challenge In Superior Court

Any citizen may bring a complaint before the Superior Court if they believe his or her name or the name of some other citizen is illegally placed on the checklist or is illegally being kept off the checklist. RSA 654:42.

NO PHYSICAL (DOMICILE) ADDRESS INFORMATION ON FILE

Supervisors of the checklist have a legal obligation to ensure that every voter has a residence in the town or city ward in which the voter is registered to vote. Each voter must have a physical (domicile) address.

RSA 659:13, requires that ballot clerks must “state the address listed on the checklist for the voter, and ask if the address is correct” – before providing a ballot to the voter on election day. This is an opportunity to update address

information in voter registration files. Supervisors should re-check the checklists for address updates since active voters should have provided ballot clerks with such information on every election day. In addition to having the ballot clerks write the new address on the checklist as required by law, supervisors may also implement a local policy of asking these voters to come to the supervisors’ table after the person votes, to complete an updated Voter Registration Form.

NOTICE OF DUPLICATE VOTER

Registered voters who have moved will sometimes appear twice in the Statewide Voter Registration System if the official entering the voter does not use the system tools to distinguish a voter transferring from one town/city to another. Supervisors of the checklist have a legal obligation to resolve duplicates before an election and to maintain an accurate checklist at all times.

The Secretary of State is required to examine the place and date-of-birth for all voter records and, where these data points match, to compare names seeking to identify potential duplicate voter records. The Secretary may forward a list of possible duplicate voters registered in the state to the supervisors of the checklist for the jurisdictions where registered. The supervisors must determine whether the identified registrations are for the same voter or not. This may require comparing information on the voter with colleagues in other towns/cities and the use of a 30 day letter. The supervisors should keep a record of how each potential duplicate was resolved and report the resolution to the Secretary of State. While law now mandates this more formal process, the Secretary of State has been working with local election officials to identify and resolve duplicate voters for many years. RSA 654:45.

If the supervisors of the checklist receive a notice of a duplicate voter from the State or

other jurisdiction, they should check their records, looking for information that would help identify whether it is one person or two different people.

Once they have identified that it is likely to be the same voter, they should refer to the registration date in *ElectioNet* and the paper record to attempt to determine in which town the voter is most likely to have registered most recently. It is reasonable to conclude that the most recent registration is the valid registration. Then, the supervisors or their staff must contact the supervisors or town clerk in the other jurisdiction where the voter is registered to resolve in which jurisdiction the voter should be registered. The supervisor or designee of the jurisdiction that should have the registered voter should log into *ElectioNet*, select Duplicate Voter, and use the “merge voter” function to merge both records.

The supervisors should keep a record of how each question was resolved and report the resolution to the Secretary of State. Any evidence that a voter may have voted more than once in any election must be forwarded to the Attorney General for further investigation. RSA 654:45

AVOID ENTRY OF DUPLICATE VOTERS

Supervisors of the checklist must always check Inquiries/Voter Registration in *ElectioNet* before entering new registrants. Over 50% of new registrants are already registered voters in New Hampshire. They have an assigned ID number and voter history that is an important record. If an election official enters a new registrant without checking in *ElectioNet* for the name in Inquiries/Registration, there is at least a 50% chance that they will create a duplicate unnecessarily. This costs the town unnecessarily to merge the voter at a later time, eliminates an incentive to remove the voter from the town in New Hampshire where he or she was last registered, reduces the credibility of the election process, and

increases the potential for fraud.

Hint: To readily find a New Hampshire registered voter in *ElectioNet*, it may be useful to search “Statewide” in Inquiries/Registration by entering a partial first and last name.

Duties of Supervisors of the Checklist

CHECKLIST OF RESPONSIBILITIES

SUPERVISORS OF THE CHECKLIST

Before the Election

_____ Take the oath of office before engaging in the duties of the position.

_____ Register voters, requiring the applicant to present reasonable documentation to prove identity, citizenship, age, and domicile. (see Voter Registration Checklist)

_____ Ensure that new voters are entered into *ElectioNet* in a timely manner and approve pending removals and approvals before providing copies of the checklist to the public. (there is an exception for confidential voters: the name and address of a confidential voter shall not appear on the checklist at the request of the voter if he or she presents to the supervisors of the checklist a valid protective order pursuant to RSA 173- B:4, or if he or she is a confidential voter under RSA 7:46.)

_____ Check Inquiries in *ElectioNet* before entering new voter data.

_____ Enter into *ElectioNet* where a new voter was last registered to vote. The Secretary of State will send a notice of transfer to the chief elections officer of that state. If the voter was previously registered in NH, *ElectioNet* performs this function when you bring them into your jurisdiction.

_____ Maintain completed registration forms and checklists in alphabetical order, updated after each election.

_____ Routinely review the *ElectioNet* reminders screen for voter information.

Removal of Voters (Note: A vote of a majority of the board of supervisors at a properly noticed public session is required to approve the pending removal and actually remove the voter from the checklist.)

_____ Send a letter to a voter and remove the voter if either (1) you receive a response from the voter affirming that he or she has permanently moved his or her domicile, or (2) the voter fails to respond to the letter within 30 days.

_____ Upon receipt of a notice of transfer that meets requirements, remove the voter from the checklist (or send a 30-day letter per above).

_____ Either remove a person's name from the checklist or send the person a 30-day notice letter if a Report of Address Change notice is received from the United States Post Office, the Department of Safety, or through *ElectioNet* that the person has permanently moved from the town or ward where he or she is registered to vote.

_____ Upon receipt of a notice of a transfer through *ElectioNet* from another NH board of supervisors, remove that voter from the checklist.

_____ Upon receipt of a copy of a death certificate, burial permit, or NHVRIN Matched Death Records in *ElectioNet*, remove the voter from the checklist.

_____ Conduct a NHVRIN Matched Death Records review on the day before every election. If the review results in the pending removal due to death of any voter, the pending removal list should be printed and brought to the polling place.

_____ Supervisors have a legal obligation to resolve duplicates before an election.

Duties of Supervisors of the Checklist

_____ Party Affiliation Changes. A voter may change his or her party affiliation any time the supervisors are in session, except between the first day of the filing period for a primary up to the day of the primary election. For any application for party change submitted between the first Wednesday in June and the day before the state primary election, make the change following primary election day. An application to change party submitted to the clerk on or after the first Wednesday in June will not change the voter's party affiliation at the primary held in September. The same restriction on changing party affiliation applies between the start of the filing period and the presidential primary.

_____ Checklist Change of Address. If a voter has changed their address on the checklist indicating they have moved within their community, the supervisors of the checklist must note the change of address on the person's voter registration form and enter it in *ElectioNet*.

_____ Additions to Posted Checklists. Except for the additions made on election day, any changes shall be made to the previously posted checklist on or before midnight on the succeeding Friday. Supervisors may also print, certify, and post an updated checklist to fulfill this requirement.

_____ Providing the Checklist to the Public. The supervisors are required to provide copies of the checklist to those who request it.

_____ Official Checklist. The official checklist used at any election shall contain the full name, domicile address, mailing address, and party affiliation, if any, of each voter on the checklist.

_____ No later than the 4th Tuesday before any state election, the supervisors shall post a current checklist at the clerk's office or at town hall.

_____ At least 10 days prior to a session for alteration of party affiliation before a primary, the supervisors shall post a current checklist at the clerk's office or at town hall.

_____ Certifying Nomination Papers. The supervisors are required to verify that the person signing the nomination is a registered voter in their town/ward.

SUPERVISOR MEETINGS

_____ Public Notice. Whenever a quorum convenes for the purpose of discussing or acting on adding a voter, removing a voter, or sending 30-day letters to voters, these actions must be taken in a properly noticed public meeting.

_____ The supervisors are required to hold one session prior to any state election (state primary, presidential primary, or general election) 6 - 13 days before the election.

_____ The supervisors are required to hold one session prior to the start of the filing period for state offices or the presidential primary. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period between 7:00 p.m. and 7:30 p.m.

_____ The supervisors are required to hold one session before the state primary election, on the Tuesday before the first Wednesday in June (that is, the day before the filing period opens) between 7:00 p.m. and 7:30 p.m.

_____ For all town, city, village district and school district elections, supervisors must hold a session on Saturday 6 - 13 days prior to the election and shall also hold one session on the day immediately prior to the first day of the filing period.

_____ In addition to the above, the supervisors should hold as many meetings as necessary to allow citizens in the community an opportunity to register or change party affiliation.

Election Day

_____ Supervisors shall be present at the opening of each election at which a checklist is to be used and shall remain in attendance until the close of the election.

_____ Prior to the opening of the polls, review and, at the opening of the polls, act on any NHVRIN death notices appearing on the reminders screen, manually noting on all copies of the checklist that a voter has been removed and placing initials next to the voter's name.

_____ Certify a copy of the corrected checklist that was posted prior to the opening of the polls, for use checking in voters on election day. Certify a second copy in hand count towns.

_____ Any person may register to vote at any election (i.e., primary and general elections, town, city, school district and village district elections) following procedures in the Voter Registration Checklist.

_____ Challenges. The moderator will bring challenges based on age, citizenship, or domicile regarding an in-person or absentee voter to the supervisors who must, using an "Asserting a Challenge" form, rule whether the challenged voter is qualified or not qualified.

_____ Primary Election Day Party Changes. Undeclared voters may, after declaring a party and voting in a primary, sign the list of undeclared voters created in *ElectioNet* which is provided at the polls to return to undeclared status on election day or the form for the same purpose. If a voter registered undeclared on election day, he or she can sign the Return to Undeclared form or list. The Return to Undeclared list and forms shall be retained by the supervisors.

After The Election

_____ Within 90 days after the closing of the polls for each regular state general election and each presidential primary election, forward one marked copy of the check-in checklist used at the election to the State Archives in Concord: State Archives, 9 Ratification Way, Concord, New Hampshire 03301- 2410. Please note that this law does not apply to the state primary. RSA 659:102.

_____ Supervisors of the checklist have a legal obligation to ensure that every voter has a residence in the town or city ward in which the voter is registered to vote; therefore, attempt to verify that each person registered on election day is domiciled at the stated address.

_____ Any case where supervisors are unable to verify the applicant's domicile, or where evidence exists of voting fraud, shall be promptly reported to the Secretary of State and to the attorney general.

_____ Maintain registration forms and checklists in alphabetical order, both of which must be updated after each election.

_____ Scan into *ElectioNet*, using the marked checklist, all voters who voted at the election. At a primary, this will include scanning in the party affiliation of undeclared voters who joined a political party to vote in that party's primary. After completing this work for a primary, then scan in the voters who changed back to undeclared after voting in a party primary.

_____ Within 30 days of the election, record in *ElectioNet* any voter who completed a qualified voter affidavit, for identity, when registering to vote.

_____ Within 30 days of the election, record in *ElectioNet* any voter who completed a challenged voter affidavit because the voter did not have photo ID when obtaining their ballot.

Duties of Supervisors of the Checklist

_____ Within 30 days of the election, record in *ElectioNet* any voter who completed a domicile affidavit when registering to vote.

_____ After each state election, the supervisors shall use the checklist from that election to correct the voter data in *ElectioNet*.

_____ The Secretary of State will provide the supervisors of the checklist with a list of voters who signed Challenged Voter Affidavits (CVAs) in order to obtain a ballot and did not respond to the Secretary of State's follow-up letter. The Secretary of State will ask the supervisors of the checklist to provide any relevant input regarding the identity of voters listed as signing a CVA.

_____ Within 30 days of the election, a supervisor of the checklist shall record in *ElectioNet* the state of issuance of a voter's out of state driver license used for photo ID.

_____ Follow the process for removal of voters as detailed above.

_____ Verify the checklist. The supervisors of the checklist shall verify the checklist:

- On petition of 50 registered voters or 5% of the registered voters, whichever is less, subject to approval after a public hearing by the Ballot Law Commission.
- On petition of a majority of the board of supervisors filed with the Secretary of State no later than the eighth Friday after a state election, subject to approval after a public hearing by the Ballot Law Commission.
- In 2031 and once every ten years thereafter.

_____ Any person can at any time submit an application for correction of the checklist to the supervisors for their consideration at their next meeting. At the next session of the supervisors, examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt and, if so, send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications.

Duties of Supervisors of the Checklist

NOTICE REQUIREMENTS FOR SESSIONS

New Hampshire law imposes different notice requirements for informing the public before holding a session for correction of the checklist. This chart provides the notice requirements for each circumstance covered in the law. See Supervisor Sessions at page 211.

Session	RSA	Hold Session	Post w/Checklist two places	Publish in Newspaper	Publish on Web Site	Post
Pre State filing period for state primary	654:32	Tuesday before first Wednesday in June between 7:00 p.m. and 7:30 p.m.	Yes, town clerk's office/ town hall	Not required	Recommended, not required	At least 10 days prior to session RSA 654:33.
State Primary Election	654:27	6 to 13 days prior to election	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session
State General Election	654:27	6 to 13 days prior to election	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session
Filing Period Presidential Primary	654:32	Friday preceding the first day of the filing period, between 7:00 p.m. and 7:30 p.m.	Yes, one should be town web site	Not required	Recommended, not required.	At least 10 days prior to session RSA 654:33
Presidential Primary Election	654:27	6 to 13 days prior to election	Yes, one should be town web site	Required only if not posted in 2 places including web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session

Duties of Supervisors of the Checklist

Before Filing period for town elections	669:5	Day immediately prior to first day of the filing period between 7:00 p.m. and 7:30 p.m.	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 10 days prior to session RSA 654:33.
Town Election	669:5 RSA 654:25- 654:31	Saturday 6 to 13 days prior to election,	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session
Before Filing period for school election (if held separately from town election)	671:15 669:5 654:25- 654:31 671:22	Day immediately prior to first day of the filing period between 7:00 p.m. and 7:30 p.m.	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 10 days prior to session RSA 654:33.
School District Election Town Supervisors act as school supervisors	671:15 669:5 654:25- 654:31 671:22	Saturday 6 to 13 days prior to election	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session
Before Filing period for village district election if district has adopted official ballot voting	670:3 669:5 654:25- 654:31 671:22	Day immediately prior to first day of the filing period between 7:00 p.m. and 7:30 p.m.	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 10 days prior to session RSA 654:33.

Duties of Supervisors of the Checklist

Village District Election*	670:3 669:5 654:25- 654:31	Saturday 6 to 13 days prior to election	Yes, one should be town web site	Required only if not posted in 2 places including town web site	Yes, one of the two posting should be on the town web site.	At least 7 days prior to session
Voluntary Sessions		Sessions held as needed at Supervisors' discretion	Requires only notice of session – no requirement to post checklist.	Not Required if posted in two public places	Yes, one of the two posting should be on the town web site.	At least 2 days prior excluding Sundays and Holidays RSA 91-A:2

(*) *“The [Village District] commissioners shall give the supervisors of the checklist 60-days’ notice of any village district election.”* RSA 670:5.

The Board of Supervisors of the Checklist and Board of Registrars in cities are public bodies subject to the Right-to-Know law (Hereinafter collectively referred to as “supervisors”).

RSA 654:39 – 10 Year Verification. In 2031, RSA 654:39 requires that:

*“II. Between April 1 and August 1 of 1981 and thereafter in each year ending with a one, the supervisors shall post notice of their sessions in 2 appropriate places one of which shall be the town or city's Internet website, if such exists, **and** published at least twice in a newspaper of general circulation and hold sufficient sessions for verification of the checklist as in their opinion will enable all eligible voters in said town or ward to appear before them and register or reregister as the case may be.”* (emphasis added).

VOLUNTARY SESSIONS

Supervisors of the checklist should hold as many sessions as you deem necessary to complete your duties. In many towns supervisors report meeting regularly, to process all outstanding applications and removals. Most boards of supervisors attend your town’s annual meeting to be available to check voters in and when necessary to issue yes-no, unofficial, ballots. Some boards will also hold a voluntary session for voter registration before and/or during that annual meeting. While not mandated by law, such a session allows a person who is qualified to register to get registered and to participate in the meeting. No election statute specifies the notice requirement for an optional session, therefore the notice requirement in the Right-to-Know law applies. RSA 91-A:2, II provides in pertinent part:

“Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.”

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Pre-Election Day

**E-MAIL ADDRESS, STREET ADDRESS,
POLLING HOURS & LOCATION**

Clerks shall establish and maintain an official e-mail address and street address for the clerk’s office. Clerks shall maintain up-to-date polling place street addresses and polling hours for each election, and shall keep such information current in *ElectioNet*. The public information clerks enter into *ElectioNet* on their office address, hours, public contact information as well as the location of polling places and polling hours is made available to the public through the Secretary of State’s web site. It is therefore very important to keep this information current. RSA 654:45, VII; RSA 657:19-c. Other information, for example contact details for other election officials, the clerk’s private e-mail, etc. are important to ensuring the Secretary of State can communicate with local officials, but this information is not public. It is not disclosed on the Secretary of State’s website.

**ACCEPTING APPLICATIONS FOR
REGISTRATION AS A VOTER**

Town and city clerks are required, during regular office hours, to accept voter registration applications and, subject to guidelines issued by the supervisors of the checklist, to take evidence of the applicant’s qualifications as a voter. RSA 654:8. Clerks or supervisors shall enter each applicant into *ElectioNet*. The clerk and supervisors should collaborate to determine who will do this data entry.

NOTICE OF DEATH

Clerks are required to review the list of deaths for their city or town reported in the New Hampshire Vital Records Information Network to search for possible matches with voter records. When a death notice exactly matches the name, date of birth and residence town/city of a voter on the checklist, *ElectioNet* sends a notice of the death to the supervisors of the checklist.

A new law requires that if the information does not match on the name, date-of-birth, and residence, but is a partial match, the Secretary of State and the clerk must send a notice of partial match of a death record to the supervisors. Best practice is the clerk

prints the “Voter Checklist Report” from NHVRINPLUS and provides it to the Supervisors of the Checklist before each session.

If the records are determined to more likely than not related to two different people, no further action is required. If the records likely match, but there is no official verification that the death and voter records relate to the same person, the clerk and supervisor must follow the procedures for an unofficial notice of death. RSA 5-C:4, IV; RSA 654:37, RSA 654:37-a

VOTER REGISTRATION FORM

The current version of the Voter Registration Form is the July 2016 form.

The statute that defines the voter registration form, RSA 654:7, was revised by SB3 (2017) to establish different forms for registering more than 30 days before an election versus registering within 30 days and on election day, however, the courts have held SB3, therefore the statute and forms as they existed before SB3 are the current law.

The voter registration form has a section in the upper right hand corner to document the circumstance in which the form is used.

_____ NEW REGISTRATION I am not registered to vote in New Hampshire.

_____ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire.

_____ NAME CHANGE/ ADDRESS UPDATE I am registered to vote in this town/ward and have changed my name/address.

There is public and legislative interest in the number of new voters registered.

Distinguishing new voter registrations from circumstances where a voter is already registered in New Hampshire but has moved from one town/ward to another or is using

the form to document a name or address change helps provide accurate information on new registrations, in particular election day registrations. RSA 654:7.

When clerks receive applications in person, determine whether the application is for a new voter, a transfer, or a name/address change. Refer to sample Voter Registration Form on page 344.

The supervisors of the checklist make the ultimate determination of whether the applicant is placed on the checklist.

In cities, the city clerk receives evidence of change of domicile from one ward to another from any person already registered to vote. The clerk works with the registrars to update the ward checklists to ensure the voter is listed in their new ward. RSA 654:8-a.

Clerks must also accept applications for change of party affiliation. The clerk shall require an applicant to give an oath or affirmation affirming his or her affiliation. The clerk must present such applications for change of party affiliation to the supervisors of the checklist who shall cause the party affiliation to be changed on the checklist as soon as permitted by law. Applications submitted between the start of the filing period for the state primary and state primary election day will not be acted on by the supervisors until after primary day and will not be effective until after the primary. RSA 654:34-a. Document a change in party affiliation in *ElectioNet*.

STUDENT VOTERS

Treat students like any other person applying for registration or, if already registered, seeking to vote.

NOTICE OF FILING PERIOD - STATE PRIMARY ELECTION

Before the opening of the filing period for a state primary election, the Secretary of State will send the “Notice to Voters of the State Primary Election” to all city and town clerks. City clerks are to forward these notices to

ward clerks. Within 10 days of his or her receipt of this notice, the town or ward clerk shall fill in the information and post them in two public places within the town or ward. These notices serve as the warrant for the State Primary. RSA 655:11; RSA 655:12.

DECLARATION OF CANDIDACY AND PRIMARY PETITIONS

Prior to the opening of the filing period for a State primary, the Secretary of State will provide each town and city clerk with a supply of Declarations of Candidacy forms and primary petitions. Only candidates for nomination by their party for state representative or delegate to the Republican state convention shall file with the town or city clerk. RSA 655:15.

Declarations of candidacy, Statement of Financial Interests, RSA 15-A forms, and primary petitions must be mailed by the town or city clerk to the Secretary of State on the same day they are filed. **In addition, clerks must send a daily summary of these filings electronically. Summaries must include the name and address of every candidate who has filed. Reports shall only be required to be sent on days that clerks' offices are open and receiving filings. A report form is available in *ElectioNet*, which must be completed and e-mailed to elections@sos.nh.gov each day that a filing is received.** RSA 655:18.

VERIFYING PRIMARY PETITIONS

It is the duty of the town or city clerk to examine the primary petitions filed by a candidate for State Representative or Delegate to the Republican State Convention. If a petition is found to be in conflict with the law, the clerk shall note the reason it is not acceptable on the petition and return it within 24 hours to the candidate. For each petition that is rejected, the candidate may file a supplementary petition with the clerk no later than the last day of the filing period for declarations of candidacy. RSA 655:26.

POSTING OF SAMPLE BALLOTS - STATE

AND PRESIDENTIAL PRIMARY ELECTIONS

The package of primary election ballots will include 10 sample ballots for each political party. The clerks must post 2 sets of sample ballots in public places in the town or ward within 1 day after he or she receives them. The remainder of the sample ballots are to be posted in the polling area on election day. RSA 656:28. Post one of each party's sample ballot at a height of 48" so as to be conveniently read by voters in wheelchairs.

POSTING OF SAMPLE BALLOTS - STATE GENERAL ELECTION

Ten sample ballots are printed and sent to the town or ward clerk to be posted in 2 public places within the community. Post the remainder of the sample ballots outside the guardrail in the room in which the voting is to be held. RSA 656:18; RSA 658:26. Post one sample ballot at a height of 48 inches so as to be conveniently read by voters in wheelchairs.

PRINTING OF LOCAL ELECTION MATERIALS

The town or city clerk must prepare regular ballots, instructions to voters, and provide for absentee ballot envelopes for local elections. Use the other forms provided by the Secretary of State for local elections. RSA 658:29; RSA 666:1.

ABSENTEE BALLOT APPLICATIONS

An individual desiring to obtain an absentee ballot must apply to the town or city clerk. RSA 657:4; RSA 657:6.

The application for absentee ballots requires the applicant to provide the applicant's phone number and the applicant's email address. Not all applicants will have both. The application is valid even if the applicant does not provide this information. The absentee ballot application is non-public and not subject to disclosure under the Right-to-Know law. RSA 654:31-a. A 2019 change to this statute explicitly made a phone number and e-mail address, provided for the purpose

of receiving information about elections, confidential and exempt from disclosure. RSA 654:31-a.

An absentee voter who requires assistance can use the assistance of a person of their choosing. The person assisting an applicant who is blind or has a disability must sign a statement acknowledging the assistance. Both the application for an absentee ballot and the Absentee Ballot Affidavit have spaces for the person assisting the voter to print and sign his or her name. RSA 657:4, I, II(b).

SIGNATURE REQUIREMENT EXCEPTION FOR VOTERS WITH DISABILITIES

An absentee voter who receives assistance in voting is exempt from the requirement that the application and affidavit envelope be signed by a voter. A voter may receive assistance from any person. *“Any person who assists a voter with a disability in executing” the application for an absentee ballot or the affidavit on the absentee ballot envelope “shall make a statement acknowledging the assistance on the application form [and on the affidavit] envelope.”* RSA 657:4; RSA 657:7, II(b), RSA 657:17.

A completed and signed application for an absentee ballot may be delivered in person, by US Mail, delivery service, facsimile, or e-mail attachment to a town or city clerk. RSA 657:6; RSA 657:12; RSA 657:13.

RECEIPT OF APPLICATION AND VERIFICATION

Upon the receipt of an application for an absentee ballot, the clerk shall check to ensure that the applicant's name is on the checklist.

The law does not require a voter to provide photo identification when applying for an absentee ballot in person at the clerk's office. RSA 657:13; RSA 657:15.

If a voter returns a completed absentee ballot to the clerk's office in person and either:

- Voluntarily shows the clerk a photo identification that meets the

requirements of RSA 659:13 (the requirements for photo identification at the polling place); or

- Voluntarily completes a challenged voter affidavit in the same manner as is required for an election day voter without photo identification

the clerk will mark the envelope and the clerk's list of absentee voters: “voter verified.” The clerk's verification of the voter may provide the moderator with helpful information in the event of a challenge to the voter's absentee ballot. RSA 657:7; RSA 657:17-a.

If the absentee ballot applicant's name is not on the checklist, the clerk shall provide the applicant with written notice of what he or she needs to do to get registered and the forms necessary to register, enclose an absentee ballot, and mark both the outer envelope and the affidavit envelope provided for return of the absentee ballot with the words “not registered.” RSA 657:16.

MAILING OR DELIVERY OF ABSENTEE BALLOTS

The clerk must mail or personally deliver the absentee ballot, making certain that the appropriate ballot, affidavit envelope, and instructions are enclosed. The clerk may designate an assistant to deliver an absentee ballot provided that the assistant is not a candidate for office or working for a candidate. The clerk shall send absentee ballots in response to verified absentee ballot requests until 5:00 PM on the day before the election. RSA 657:15.

Upon request from a UOCAVA voter that the absentee ballot be e-mailed, the clerk shall e-mail the absentee ballot, affidavit, and instructions to the UOCAVA voter and update the voter's record in *ElectioNet*. RSA 657:19; RSA 657:26.

Upon receipt of an absentee ballot application from a UOCAVA voter up to 45 days prior to a presidential primary, state primary, or state general election, clerks must

enter the absentee ballot request in *ElectioNet*. Pursuant to a request from a UOCAVA voter, the clerk will mail or e-mail the voter an absentee ballot, affidavit (oath), and instructions no later than 45 days prior to a presidential primary, state primary, or general election. Following this date, the clerk will continue to respond to UOCAVA requests, without delay, until the 5:00 PM on the day before the election. RSA 657:19.

The town or city clerk shall forward a copy of all Federal Post Card Applications (“FPCAs”) to the supervisors of the checklist. RSA 657:19-a. If the person is not yet registered, the supervisors will use the FPCA as an application for registration. If the FPCA came from a registered voter, the supervisors will use the FPCA to verify and update the voter’s record. See FPCA at page 334.

FPCAs are honored as absentee ballot applications applying to all elections held during the full calendar year in which they are received, except that FPCAs received in the calendar year prior to the year of a presidential election shall be honored for the presidential primary. Clerks may treat receipt of a Federal Write-in Absentee Ballot (FWAB) as a request for an official absentee ballot, particularly when they do not have a signature of the voter on file. RSA 657:10-b; RSA 657:19-a.

Send UOCAVA voters who qualify to vote on a regular ballot at state elections an absentee ballot for town, school, and village district elections. Do not send an absentee ballot to those voters who are only eligible to vote on federal offices. Use Federal Office Only (FOO) ballots only at state elections.

LIST OF ABSENTEE VOTERS

The clerk shall use *ElectioNet* to maintain an up-to-date list, arranged by voting place, of all (regular and UOCAVA) applicants to whom absentee ballots have been sent, and shall identify on the list those absentee ballot envelopes which have been returned by the voter. RSA 657:15.

Provide a copy of the list of absentee ballot applicants to a candidate, at cost, upon receipt of a direct request from the candidate or from a person presenting an original or a copy of a notarized request from a candidate. RSA 657:15, II. The list shall include only voter name, voter ID number, the date the absentee ballot was requested, and the date that the ballot was returned. RSA 657:15, III.

This has been the law for some time. A new law reinforces the requirement that if a candidate requests the list in electronic format, it must be provided in electronic format free of charge. RSA 657:15, II

The absentee ballot list is otherwise a non-public document. Because of the non-public nature of this list, emailing such lists is not permissible. RSA 657:15; RSA 654:31-a. Due to cyber security concerns, to protect the privacy and security of their homes for voters who are absent, do not e-mail the absentee applicants list.

The list of voters who have requested absentee ballots, where applicable with the date the ballot envelope was received back, will be available in electronic formats in *ElectioNet*. Until that report option is programmed into the system, the Elections Division Help Desk will distribute electronic reports that clerks can use to fulfill qualified requests.

This list shall exclude voters who have requested confidential voter status and presented to the supervisors of the checklist or the clerk valid protective orders pursuant to RSA 173-B:4 or who are confidential voters under RSA 7:46. RSA 657:15.

VOTER INFORMATION LOOKUP

The Secretary of State maintains a public website that enables an absentee voter to enter his or her name, town, and date of birth and determine whether and when his or her:

- Absentee ballot request was received by the clerk;
- Absentee ballot was mailed or delivered to the voter;

- Whether an envelope purporting to contain the marked absentee ballot was received by the clerk from the absentee voter; and
 - If the absentee ballot is rejected on election day and not counted, the reason for rejection.
- The voter’s spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild;
 - The administrator or administrator’s designee of a nursing home, if the voter is a resident of the nursing home;
 - The administrator or administrator’s designee of a residential care facility, if the voter is a resident of the residential care facility; or
A person who assists a voter with a disability with voting absentee and signs his or her name on the affidavit on the line for identifying a person who assisted the voter. This type of delivery agent is limited to delivering no more than 4 absentee ballots in any election.

To ensure that voters know what happened to their absentee ballot request and their returned absentee ballot, it is important to keep data entry into *ElectioNet* up to date and this feedback current. Information on voting instructs voters to call the clerk if they do not find the expected entry in the Voter Information Lookup. Keeping input current will help diminish phone call inquiries.

The system provides transparency of the absentee ballot process for the voter. Information on rejected absentee ballots helps absentee voters correct their mistakes in the future. RSA 657:26.

HOW A VOTER CAN TRACK HIS OR HER ABSENTEE BALLOT

The city or town clerk shall provide instructions to absentee voter applicants describing how to access the Secretary of State’s “Voter Information Look-up” at:

<https://app.sos.nh.gov/viphome> (Last Visited 8/4/2022).

this may be accomplished with a link from a town/city website to this URL. RSA 657:26. See starting at page 330.

Voter Delivery Of Marked Absentee Ballots To Clerk

A voter who has received an official absentee ballot must either mail or personally deliver, or have a delivery agent deliver the marked absentee ballot in its inner affidavit and outer mailing envelopes to the town or city clerk. Alternately, a delivery agent may hand deliver an absentee ballot to the town or city clerk’s office or, on election day, to the town, city or ward clerk at the polling place no later than 5:00 PM. Only the following are authorized by law to serve as a delivery agent:

RSA 657:17. A delivery agent must sign an Absentee Ballot Return Form when delivering an absentee ballot on election day. RSA 657:17. As a best practice, clerks should request that delivery agents complete an Absentee Ballot Return Form when delivering absentee ballots to the clerk’s office before election day.

The law does not authorize clerks to receive completed absentee ballot return envelopes from anyone other than the voter, a delivery agent, or the U.S. Mail (including UPS, Fed-Ex, and other commercial delivery services).

The law creates an effective deadline of the day before the election for a voter to personally return an absentee ballot. Clerks or a designee are required to be available between the hours of 3 p.m. and 5 p.m. on any day that is a deadline for an election law filing, including the Monday before an election to receive absentee ballots. RSA 652:20. The law explicitly requires the clerk’s office to be open to receive absentee ballots:

“(c) As required by RSA 652:20, the clerk’s office shall be open to receive applications for absentee ballots, to provide voters the opportunity to complete absentee ballots, and to receive returned

ballots on the Monday immediately prior to an election at a minimum from 3:00 p.m. to 5:00 p.m. The clerk may designate a deputy clerk or assistant to provide this service, provided the individual has taken the oath of office and has been trained in the requirements for using an absentee ballot and the procedures for issuing and receiving absentee ballots.” RSA 657:1.

Absentee ballots delivered by mail shall be accepted by the town or city clerk no later than 5:00 p.m. on election day. RSA 657:22. If a voter appears in person at the polls to deliver an absentee ballot, the voter should be directed to vote in person using an election day ballot. The voter may keep the absentee ballot/envelope or it may be marked as “voted in person” and added to the rejected absentee ballots that are not opened and which are preserved with other ballots.

ABSENTEE BALLOT AFFIDAVIT ENVELOPE

The format of the absentee ballot affidavit envelope was changed to require an applicant to only indicate that one of the listed reasons for requesting an absentee ballot applies without requiring the voter to identify which reason applies. RSA 657:7. SB31 (2021).

On the absentee ballot application the applicant is still required to identify which listed circumstance allows them to vote by absentee ballot, however, they are no longer required to identify the specific reason on the affidavit envelope they use to return the marked absentee ballot.

CLERK RECEIPT OF MARKED ABSENTEE BALLOTS

Upon receipt of an outer envelope purporting to contain an official absentee ballot, the clerk shall attach the voter's absentee ballot application form to the return envelope, and record the information in *ElectioNet*. All such envelopes shall be preserved unopened until election day. RSA 657:18.

Any absentee ballots received in the mail prior to 5:00 p.m. on election day must be

considered valid if the affidavit envelope is properly filled out, the voter is qualified, and has not already voted in person. RSA 657:22.

Do not reject a UOCAVA voter's ballot for lack of an attached application. RSA 657:23.

Voting Twice In The Same Election

To become registered the applicant will have to sign, under penalty of voting fraud, the registration form that includes the phrase “*and if registering on election day, that I have not voted and will not vote at any other polling place this election.*” RSA 654:7.

If an election official, another voter qualified to vote in the polling place, or a challenger appointed in writing by the state political party has evidence that a person has already voted in the election, by absentee ballot or otherwise, they may make a voter challenge with the moderator. After the election any evidence that a person voted in one town by absentee ballot and in a second in person or also by absentee should be reported to the Attorney General's Office. It is a felony to vote in the same election in New Hampshire and in some other state.

INTERSTATE COMPARISON OF RECORDS

The Secretary of State is authorized to enter into agreements with other states to compare voter records to identify voters who have moved and should be removed from New Hampshire checklists or who may have voted in two states in the same election. RSA 654:45, VIII; Laws of 2016, 175:2. The Interstate Crosscheck program is not currently operating.

SUPPLYING POLLING PLACE BALLOTS, CHECKLISTS, FORMS

The clerk must bring to the polling place the ballots, absentee ballots, checklist, one4all accessible voting system, and election forms supplied by the Secretary of State for election day. In ballot counting device towns, the clerk must also bring the AccuVote device. RSA 658:9. The clerk also prepares the other

supplies needed for the election. See recommended list at page 351.

Inspect Ballots Upon Receipt

The town or city clerk must open all boxes of ballots received from the Secretary of State for a state election in the presence of at least one other voter as soon as possible after receiving those boxes. The clerk must verify that the ballots are the proper ones for that town or city and then reseal the boxes using the sealing labels provided in the box. RSA 656:20; RSA 656:22; RSA 656:29.

Test one4all upon receipt

The clerk shall test the one4all accessible voting tablet upon receipt from the Secretary of State. The test must include connecting the device to the printer provided by the state, marking, and printing one test ballot. Contact the Elections Division Help Desk, 271-8241, immediately if there is any problem. Mark the ballot “one4all test” and preserve it. For ballot counting device polling places, preserve the one4all test ballot with the other test ballots used to test the ballot counting device.

Mandatory Clerk Office Hours

Whenever the election laws require a filing with or an action by an official, such filing or action shall be performed before 5:00 PM on the stipulated day. The clerk’s office shall be open between the hours of 3 p.m. and 5 p.m. RSA 652:20.

Nursing Home Absentee Registration & Voting

Residents of Nursing Homes and similar facilities, while encouraged to vote in person on election day if they are able to do so, are frequent absentee voters. Over the years several municipalities have reported incidents causing concern for whether nursing home residents were being unduly influenced when marking their absentee ballots. While not required by law, it is best practice for clerks to arrange an absentee registration and voting event at the nursing

homes and similar facilities within their municipality.

Either in person or through a designee, the clerk has the nursing home recreation/activities director plan, publicize, and organize a voting event for some day close to but prior to the election. The clerk, a deputy clerk, supervisors, or some trusted non-partisan designee of the clerk goes to the home and assists those residents who will be unable to travel to the polls on election day with registering absentee, if needed, and voting absentee. If the clerk uses a designee, it is important that the person is non-partisan and not a member of the facility staff. If it is necessary to use facility staff, provide training and obtain a commitment to provide the service in a non-partisan manner. This process ensures that no one is able to unduly influence the residents as they make their voting choices. The Secretary of State and the Attorney General’s staff are available to assist in training designees or otherwise organizing this type of registration/voting event.

A PERSON WHOSE PHYSICAL DISABILITY PREVENTS THEM FROM SIGNING THEIR NAME

Accept and treat as valid an absentee ballot application or an absentee ballot affidavit envelope that has no signature on the line for the voter’s signature but does have the printed name and signature of a person who assisted the voter. Voters with a disability should sign these forms if able, but if the voter is unable to do so the signature of the person assisting is sufficient.

If requested, make some accommodation to allow a person with a disability that prevents the voter from signing their name to vote. The best practice would be for the clerk to appoint someone neutral to take the absentee ballot to the voter and to verify that the ballot was marked by the voter or at the voter’s direction. If the voter uses a stamp to sign, the person assisting should attest that the stamped name is legitimate as the voter’s signature. The clerk’s appointee should

countersign both the application and the affidavit envelope next to the stamped signature or submit a written and notarized statement to accompany the sealed affidavit envelope verifying that the voter himself or herself caused the ballot to be marked and the affidavit to be stamped with the voter's signature. New Hampshire Constitution, Part 1, Article 11.

ASSISTANCE TO PERSONS WHO ARE UNABLE TO COMMUNICATE

Persons with Alzheimer's disease or persons with other disabilities, who are otherwise qualified as voters, must be allowed to vote as long as they are able to vote without assistance.

If the voter needs assistance, allow the voter to vote if he or she is able to communicate his or her choice on how their ballot must be marked. Any means of communication that a stranger can understand is acceptable. This might include communication such as blinking their eyelids once for yes and twice for no, or tapping a finger once or twice, as the person assisting them reads off the choices. Do not allow a family member or friend to mark the ballot based on how the family member or friend believes the voter would have voted had the voter been able mark the ballot or communicate a choice.

A person with a power of attorney is not allowed to vote for the person for whom he or she holds power of attorney in any circumstance. The power of attorney does not extend to voting.

When a voter has assistance at the polls marking his or her ballot, both the voter and the person assisting the voter must take the oath required by law. Afford the voter the opportunity to take the oath orally, in writing, or by any other means of communication. If the voter lacks the capacity to take the oath they are not allowed to vote. RSA 659:20.

Election Day Duties – Town Clerk

PROCEDURE FOR ACCEPTING VOTERS

In towns that do not use a ballot counting

device, when the voter has completed marking the ballot, he or she checks out with the clerk by approaching the checkout table and stating his or her name (name and party, if a primary) to the town or ward clerk. The clerk places a mark beside the voter's name on the checklist. The voter then proceeds to the ballot box and hands the ballot to the moderator for deposit into the ballot box. Towns and cities using ballot counting devices are not required to have a checkout table. RSA 659:23.

DELIVERY OF ABSENTEE BALLOTS TO MODERATOR

On election day, prior to the time set for processing absentee ballots, the clerk shall deliver the absentee ballot envelopes received from absentee voters, with the applications attached, to the moderator. RSA 657:23.

Because the deadline for receipt of absentee ballots is 5:00 p.m. on election day, clerks must arrange to retrieve all U.S. mail delivered on election day by 5:00 p.m. Ideally arrange to pick up mail left at the clerk's office by the US Postal Service or delivery services (UPS, FedEx, etc.) and if your local post office receives mail before 5:00 PM on election day for delivery on the day after the election, to pick up all mail for the clerk from your post office.

Any absentee ballot return envelopes received by 5:00 p.m. election day must be processed by the moderator and counted if the affidavit is in order, the voter qualified, and if the voter has not already voted in person. The clerk shall record absentee ballots received after 5:00 p.m. in *ElectioNet* with the return date and shall mark the ballot as rejected due to receipt after election day. RSA 657:17; RSA 657:22. See also RSA 657:21-a.

ABSENTEE BALLOT RECORD KEEPING

On election day, the moderator must record the reason that any absentee ballot has been rejected by the moderator on the clerk's

absentee ballot list created under RSA 657:15. RSA 657:26; HAVA Section 703; RSA 659:53. Promptly following the election, the clerk must enter this information into *ElectioNet*. The information then becomes available to the voter through the Secretary of State's "Voter Information Look-up" at: <https://app.sos.nh.gov/viphome> (Last Visited 8/4/2022)

OUT OF BALLOTS

The clerk must set aside at least one of each page/type of official ballots in use at an election for use to make copies.

If the supply of official ballots is exhausted, the clerk must first use leftover absentee ballots. The clerk should cross out the word "absentee" and initial the absentee ballot prior a ballot clerk issuing it to a voter.

If the supply of official ballots and absentee ballots is exhausted the town or city clerk shall prepare additional unofficial ballots as provided in RSA 659:24 and RSA 658:35. Photocopies must be made of an unused official ballot. Authenticate each photocopy ballot by the clerk or designee signing his or her name or initials prior to the photocopy ballot being issued to the voter. A clerk may also use a signature stamp to authenticate photo copy ballots. Authentication distinguishes any such authorized unofficial ballots from fraudulently created ballots. RSA 659:24. Keep an accurate record of the number of unofficial ballots created and the number put into use as election day ballots. The moderator requires these number for the ballot inventory on the moderator's worksheet.

Generally, use at least ten such ballots. If fewer than ten unofficial ballots are needed, avoid any procedure that would make the ballot(s) used by the last few voters identifiable. Preserve the right to a secret ballot.

Clerks should monitor the voter turnout and anticipate the need for additional ballots so that they can be prepared before the official

supply is exhausted. RSA 659:24.

ABSENTEE BALLOT DELIVERY TO VOTERS INCAPACITATED ON THE DAY OF THE ELECTION

There is no state law that establishes a deadline for applying for an absentee ballot other than the deadline that absentee ballots must be received by 5:00 p.m. on election day. The exceptions are that absentee ballots from voters using curbside (outside accessible voting) and emergency services workers are counted until the polls close. RSA 657:21-a; RSA 657:22.

If a voter, for example someone who planned to vote in person but was unexpectedly hospitalized on election day, requests delivery of an absentee ballot, the town or city clerk may deputize someone to take an absentee ballot with the application and affidavit envelope to the person. The clerk or designee waits to accept receipt of the completed absentee ballot package in person. The constitutional equal right to vote may require that if a clerk extends this service to one person but not to a similarly situated person, the clerk must have at least a rational basis for treating the two people differently. Generally, it is recommended that clerks adopt a uniform practice, treating all similarly situated persons equally.

UNFORESEEN INABILITY TO ACCESS THE POLLING PLACE

RSA 659:20-a, which enables an absentee ballot to be delivered to a voter at their car outside the polling place, provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises.

This law addresses a situation where a voter planned to access an ADA-compliant polling place and was unable to do so. Do not use this law in lieu of maintaining an accessible polling place. It should not be used for a voter's convenience in place of voting absentee when a voter can anticipate difficulty getting into the polling place and request an absentee ballot.

To achieve equal treatment under the law, the U.S. Department of Justice recommends this stop-gap approach in “rare circumstance(s):”

“While absentee balloting can be offered to voters with disabilities, it cannot take the place of in-person voting for those who prefer to vote at the polls on Election Day. Any alternative method of voting must offer voters with disabilities an equally effective opportunity to cast their votes in person.

For example, the only suitable polling site in a precinct might be an inaccessible building. In this rare circumstance, election administrators may provide “curbside voting” to allow persons with disabilities to vote outside the polling place or in their cars. In order to be effective, however, the curbside voting system must include:

(1) signage informing voters of the possibility of voting curbside, the location of the curbside voting, and how a voter is supposed to notify the official that she is waiting curbside;

(2) a location that allows the curbside voter to obtain information from candidates and others campaigning outside the polling place;

(3) a method for the voter with a disability to announce her arrival at the curbside (a temporary doorbell or buzzer system would be sufficient, but not a telephone system requiring the use of a cell phone or a call ahead notification);

(4) a prompt response from election officials to acknowledge their awareness of the voter;

(5) timely delivery of the same information that is provided to voters inside the polling place; and

(6) a portable voting system that is accessible and allows the voter to cast her ballot privately and independently.”

<https://www.justice.gov/file/69411/download> (last visited 8/4/2022).

Counting The Ballots

The moderator is responsible for supervising the counting of ballots. The town clerk, selectmen, and other election officers should participate in the ballot counting process as directed by the moderator. RSA 659:60.

REPORTING THE ELECTION RESULTS

After all state election ballots have been counted, the town or ward clerk must report the results on the Return of Votes forms provided by the Secretary of State by 8 AM on the day following the state election. Polling places that use a ballot counting device must print an extra “Long Tape Report” and send it to the Secretary of State with the Return of Votes form and the accessible “one4all” tablet.

Clerks will receive instructions on where to deliver the “Return of Votes” and the one4all tablet(s), which typically will be a law enforcement agency in your region. The State Police collect the “Return of Votes” forms and one4all tablets from across the state overnight and deliver them to the Secretary of State.

The ward clerk should send copies to the city clerk. Subject to the request of the Secretary of State, Names on Checklist forms, examples on pages 426 and 428, and Moderators Worksheets (page 423) must be completed within 48 hours (or sooner if requested) after the closing of the polls. Many find it easier to do these forms election night. The city or town clerk must keep a copy of the Return of Votes, Ballots Cast Form, Names on Checklist, Moderators Certificate, Moderator’s Worksheet, and should retain tally sheets and reconciliation worksheets. If a question arises regarding the results reported on the Return of Votes, having quick and easy access to these forms often allows certain resolution of the question. RSA 659:73; RSA 659:75.

BALLOT COUNTING DEVICES – LONG REPORT TAPE

RSA 659:75, II requires the clerk to send a

copy of the long tape report from the AccuVote ballot counting device with the Return of Votes to the Secretary of State on election night.

“For a city or town that uses an AccuVote electronic ballot counting device in a state election, the town or ward clerk shall print and forward a paper copy of the long report tape to the secretary of state with the return of votes form and shall keep a paper copy of the long report tape with the paper return of votes form that is retained by the town or city clerk in accordance with paragraph I.” RSA 659:75, II.

Ensure that the ribbon in the ballot counting device prints clearly legible numbers on the paper tape. Always keep a replacement ribbon and an extra roll of paper tape with the device.

Instructions for printing a long tape report are on page 353 of this manual.

Print at least 4 copies of the long results tape.

1 – to be kept by the clerk as a public record;

1 – to be kept by the moderator, to use if questions arise regarding the results;

1 – to send to the Secretary of State with the Return of Votes; and

1- to post as part of the moderator’s public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk’s office.

After printing the first long tape report the device LCD screen will ask whether you want another copy. Press the “yes” key. Best practice is to print a copy for the moderator to keep.

An explanation of the data printed on the Long Report Tape is at page 354.

DELIVERY OF BALLOTS TO THE CLERK

The election officers designated to deliver the ballots to the clerk must deliver the cast and counted ballots in a sealed container. In the presence of these officials, the clerk shall subscribe upon the label the time when the ballots are received and sign his or her name in the appropriate blank on the sealer. RSA 659:98.

The clerk is required to maintain a log documenting the receipt, storage, and transfer/disposal of all sealed boxes of ballots and absentee voting materials from the election. See the ballot storage log and instructions at page 397.

SPOILED AND UNUSED BALLOTS

Preserve the cancelled (spoiled) and unused ballots in the ballot storage boxes labeled in red ink “Ballots,” in the same manner as the cast ballots. RSA 659:95.

Do Not Seal Tally Sheets in the Boxes Of Ballots

To permit review of tabulation results after the election, do not seal election-night tally sheets or the printed results tapes from a ballot counting device in the boxes of ballots from the election.

Do not seal absentee ballot lists in the sealed boxes of ballots. The lists will be needed to enter rejections and rejection reasons into *ElectioNet*.

Do not seal the moderator’s worksheet in the sealed boxes of ballots. It is a public document, subject to disclosure under the **Right-to-Know law**.

CERTIFYING THE CHECKLIST

Before the election, the supervisors must certify that the corrected checklist according to their best knowledge contains (fill in number) of names of those persons, “*who are by actual domicile legal voters*” in the town or ward. RSA 654:29. Provide two certified copies to the clerk. The clerk and moderator must use those certified copies as the checklist for the election. Only one certified

checklist is used at polling places where a ballot counting device is used.

After closing of the polls to voting the moderator and the clerk must certify the checklist marked by the ballot clerks under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered. The moderator and clerk certify that it is the checklist used by them on election day and that it contains a correct and complete list of the legal voters in their town or ward, including those who registered on election day. RSA 659:56. At polling places that use a ballot counting device, the moderator and clerk also sign the bottom of the long results tape copy that will be kept by the clerk and the copy that will be sent, with the return of votes, to the Secretary of State.

Post-Election Duties – Town Clerk

STORAGE OF SEALED BOXES OF BALLOTS

RSA 659:98 has been amended to require that sealed boxes of ballots be stored in an area under the direction of the clerk.

“The clerk or the clerk’s designee shall, without breaking the seals or otherwise changing the condition of the containers, deposit the containers in the town or city hall. Containers containing ballots and absentee balloting materials that have been sealed after an election according to instructions provided by the secretary of state shall be stored in a location under the direction of the clerk. A log shall be maintained by the clerk specifying the location and the containers at the location. Once stored, the containers shall be accessible only to individuals working under the direction of the town clerk, as required for recounts, or as necessary for the secretary of state to verify the container storage. When the containers are removed to allow for destruction of ballots in accordance with RSA 33-A:3-a, the destruction of the ballots and absentee

balloting materials shall be the final entry in the log.” RSA 659:98.

Clerks must follow these requirements starting on election night for all ballots and materials sealed into boxes. Clerks will also need to secure and log the box used for unopened absentee ballot return envelopes that are received after the election. Make a log entry showing a box (or envelope) that is being used to securely hold returned absentee ballot envelopes. This box may be kept in a different location, for example a secure place in the clerk’s office, from where the other sealed boxes of ballots are stored.

If your ballots are picked up for a recount, ensure all absentee ballot envelopes received after the election up to the time when the pick-up occurs are secured in a sealed box, documented in the log, and turned over to the Secretary of State’s staff making the pickup.

In that event clerks will need to start an additional container to securely store returned absentee ballot envelopes that arrive after the Secretary of State’s office makes the pick-up. When it is unlikely that any further absentee ballots will be returned, the secure container must be sealed with an election night seal, the entry made in the log updated, and the sealed box secured in accordance with this law.

This statute requires that the stored sealed boxes of ballots “shall be accessible only to individuals working under the direction of the town clerk . . .” Towns and cities currently using shared storage space, where the ballot boxes are comingled with materials stored by other town/city departments, are required to:

- Use a different space that is exclusively under the direction of the town clerk; or
- Modify a section of the storage space to make it secure and place that section of the space under the direction of the clerk.

Under the direction of the town clerk means

that the clerk controls or has knowledge of who has access to the space used for ballot storage. The law does not prohibit storing other materials in the space used for storing ballots. Other materials from the clerk's office stored there by or under the direction of the clerk are permitted. Storage of materials by other town departments would require that the storage be under the direction of the town clerk. Best practice is to have the clerk or clerk's staff be directly involved in providing admittance to the area and directly overseeing the placing or removing of materials from storage.

The Clerk must maintain a log "specifying the location and the containers at the location." RSA 659:98. The log to use for this purpose is available in *ElectionNet > Help > Instructions*. The log must document:

- The total number of boxes, including both the red ink label "ballots" and the blue ink label "Absentee Voting Materials" boxes. This number must match the number written onto the sealing label for all boxes in the "y" position. That label requires entries where it reads *_x_ of _y_ boxes*, with *x* being a sequential number, 1 for the first box, 2 for the second, etc. Use one numbering sequence for all boxes. The number written in the "y" position must be the same on all labels and must equal the total number of boxes (ballots and absentee voting materials);
- The initial storage of the sealed boxes of ballots and absentee voting materials;
- All access made to the sealed boxes, for example removal of the boxes of ballots from a town election for a town recount and then their return to storage; and
- The transfer of custody of the boxes to the Secretary of State for purposes of a recount; or
- The removal of the boxes from storage and their details of their destruction.

The Secretary of State's instructions for the log requires the signature of the clerk, deputy clerk, or assistant clerk and at least one

witness for each entry. The log must be kept at the clerk's office. The log is a public document subject to disclosure under the Right-to-Know law. The log should be preserved for the same period as is required for the marked checklists from the election, 7 years following the election or until the contest is settled and all appeals have expired, whichever is longer.

The Secretary of State's instructions for storage of sealed boxes of ballots and sealed boxes of absentee voting materials and the required chain of custody log are at page 432 and are available in *ElectionNet > Help > Instructions*. RSA 659:98. HB1457 (2022)

SEALING BALLOTS FOR STORAGE

Ballots must be sealed into containers at the end of counting on election day and must be preserved in those sealed containers until opened by order of the Secretary of State or in local elections by the Board of Recount. Even then, the sealed containers must be opened under conditions that preserve the integrity of the ballots and upon completion of the recount, the ballots must be resealed. Upon order of the Ballot Law Commission or a court hearing an appeal from a recount, make protested ballots available to the Commission or the Court, but even then the ballots shall be under the control of the Secretary of State or the clerk, except when in actual possession of the court. Ballots shall be sealed in the boxes, labeled in red ink "Ballots," provided by the Secretary of State. Absentee voting materials shall be sealed in the boxes labeled in blue ink "Absentee Voting Materials" provide by the Secretary of State.

KEEP ELECTION OFFICIAL/POLLING PLACE INFORMATION CURRENT IN *ELECTIONNET*

Clerks shall establish and maintain an official e-mail address and street address for the clerk's office. Clerks shall maintain up-to-date polling place street addresses and polling hours for each election, and shall keep such information current in *ElectionNet*. The

public information clerks enter into ElectioNet on their office address, hours, public contact information as well as the location of polling places and polling hours is made available to the public through the Secretary of State's web site. It is therefore very important to keep this information current. RSA 654:45, VII; RSA 657:19-c. Other information, the law requires clerk's to enter and keep current, for example contact details for other election officials, the clerk's private e-mail, etc. are important to ensuring the Secretary of State can communicate with local officials, but this information is not public. It is not disclosed on the Secretary of State's web site.

RIGHT TO KNOW LAW BALLOTS

Ballots are explicitly exempted from the Right-to-Know law, RSA 91-A, by RSA 659:95, II; RSA 660:16, II; and RSA 669:33, II.

VOTER REGISTRATION RECORDS

All information in voter registration records is non-public except the voter's name, the ElectioNet ID number, physical street address, mailing address, town, city, and party affiliation, if any. RSA 654:31-a. **The marked checklist used at an election is the only public record that shows whether a voter participated in an election and whether in-person or by absentee. Voter history as stored in ElectioNet is non-public.**

Election officials and law enforcement personnel, in the performance of their official duties, may access and disclose information from voter forms identified in RSA 654:31-a below if necessary to resolve a challenge to an individual registering to vote or an individual voting or by law enforcement for a specific voter when investigating any crime.

"The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information

subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter affidavits, domicile affidavits, affidavit of religious exemption, application for absentee ballot, and contact information, including but not limited to a phone number and email address, provided to the secretary of state or other election officials for the purpose of receiving information about elections shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, qualified voter affidavits, affidavits of religious exemption, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution." RSA 654:31-a.

ELECTIONET – RIGHT TO KNOW LAW

The federal Help America Vote Act of 2002 required the establishment of a statewide database of registered voters. All jurisdictions must use the database, entitled ElectioNet, in the federal-state primary and general elections and at municipal elections.

All information in the statewide database is exempt from the Right-to-Know law, except for the public information identified above. Individuals wanting to obtain checklists have to pay a fee to the towns and cities and obtain the copy of the checklist from the

supervisors or the supervisor's designee. In limited circumstances, the public information in the statewide database can be purchased from the Secretary of State.

The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31, nor shall it or any of the information contained therein be disclosed pursuant to a subpoena or civil litigation discovery request. The secretary of state is authorized to provide voter database record data to the administrative office of the courts to assist in the preparation of master jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States for the District of New Hampshire to assist in the preparation of federal court jury lists. The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor. RSA 654:45, VI.

CHECKLIST AVAILABLE IN ELECTRONIC FORM

An amendment to RSA 654:31, II requires that the supervisors of the checklist and clerk shall provide the current checklist in either paper or electronic form, in accordance with the person requesting the checklist's preference. *ElectioNet* allows selecting the PDF (can be provided in electronic form or printed to paper), XLS (Excel – an electronic file), CSV (Comma Separated Values – an electronic file) or HTML (Web page view, can be printed to paper). The fee for the checklist remains the same and applies to both paper and electronic copies of the checklist.

Generally, provide an alpha voter list. An election must be pending in *ElectioNet* for the system to produce a checklist with bar codes for the voter ID. An alpha voter list contains the same information as the checklist, except no bar code. The bar code contains only the voter ID number, which is also printed as a number. A checklist with the

barcode uses more pages for the same number of voters. Neither the electronic checklist nor the alpha voter list include voter history.

"In towns and cities, the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors of the checklist or city or town clerk shall furnish a physical copy or an electronic copy of the most recent public checklist of their town or city to any person requesting such copy. If a person requests an electronic copy, the supervisors of the checklist, or the city or town clerk, shall notify the person requesting the copy of the electronic format options available from which the person requesting may choose. The supervisors of the checklist or city or town clerk may only provide checklist information for their town or city. The supervisors of the checklist or city or town clerk shall charge a fee of \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist or city or town clerk shall charge a fee of \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist or city or town clerk may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form." RSA 654:31

Address Maintenance

The Secretary of State is required to ensure that voter addresses in the Statewide Voter Registration System are formatted in conformance with US Postal Service requirements. This includes a requirement for the zip code +4 format. RSA 654:45.

Change of Address Notice

Starting on July 1, 2022, the Secretary of State is required to check NH voter addresses against the US Postal Service change of address system and notify supervisors of the checklist of permanent moves. RSA 654:45

RETENTION OF VOTER REGISTRATION FORMS

Retain all voter registration forms and other records relating to voter registration securely in a municipal office under the direction of the town or city clerk. Those forms and records shall be readily accessible to the supervisors of the checklist.

File any voter registration document submitted at a meeting of the supervisors of the checklist or at the polling place at the office of the town or city clerk within 10 days of the meeting or election at which it was submitted. RSA 654:13-a. See Retention Chart at page 440.

PRESERVATION OF BALLOTS

State primary, presidential primary, and general election ballots, because they are also used for federal offices, are required by federal law to be preserved until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer. 52 U.S.C. §20701 RSA 33-A:3-a.

If a recount is requested for a state election, the Secretary of State will collect the ballots. If a recount is conducted for a local election, the ballots must be retained until the contest is settled and all appeals have expired, or at least 60 days after the election, whichever is longer. If legal action regarding those ballots is pending, the ballots must be preserved until destruction is authorized by the court. RSA 669:33; RSA 33-A:3-a.

Record absentee ballot return envelopes received after the election in *ElectioNet*. This record is essential for voters to find the status of their absentee ballot in the Voter Lookup and is required for mandatory reporting to the federal Election Assistance Commission. Voters are instructed to call their clerk's office if they do not find a record of the absentee ballot in the Voter Lookup. Timely entry of data into *ElectioNet* will diminish these calls. Absentee ballot return envelopes received after election day shall be preserved unopened in the same manner as ballots used

at the election and shall be destroyed, unopened and unexamined, when the other ballots used in that election are destroyed. RSA 657:22. RSA 657:15; RSA 657:26; HAVA Section 703.

PRESERVATION OF CHECKLIST

After every election, state or local, the clerk must preserve a marked copy of the checklist as a public record for a period of at least 7 years. RSA 33-A:3-a.; RSA 659:102.

Before disclosing a marked checklist from a prior election, review the checklist to ensure that the document does not contain added non-public information. If dates-of-birth or other non-public information has been written onto the copy of the marked checklist, it must be redacted prior to disclosure to the public. Contact your municipal legal counsel or the Attorney General's Office if you have questions.

PRESERVATION OF AFFIDAVITS AND ABSENTEE VOTING MATERIALS

All Challenged Voter Affidavits (including all attached Affidavits of Religious Exemption) shall be retained by the clerk and are subject to the retention requirements in RSA 33-A:3-a, XXXVIII.

The moderator must save all the rejected (unopened) and any challenged (opened or unopened) absentee ballot envelopes and provide them to the clerk to preserve in accordance with the laws governing the retention, preservation and destruction of ballots. RSA 33-A:3-a; RSA 659:101 . The remaining opened (empty) absentee ballot envelopes shall be preserved with the cast, uncast and cancelled ballots, but in the boxes provided by the Secretary of State with the label in blue ink "Absentee Voting Materials," for the applicable retention period.

In the event of a recount, the opened (empty) absentee ballot envelopes must be sent to the Secretary of State along with the ballots.

RECORD KEEPING ON USE OF OUT-OF-STATE ID

When a voter obtains a ballot with either an out-of-state driver's license or identification card, the ballot clerk must write the two letter state abbreviation (MA, ME, VT, NY, etc.) on the checklist. The supervisors or clerk must record this data in *ElectioNet*. Within 30 days of the election, the supervisors of the checklist, or someone designated by them, shall scan the voter ID number and the state of issuance of a voter's driver's license or identification card into *ElectioNet*. RSA 659:13, I(b).

ElectioNet also requires the supervisors to report if there are no voters in their polling place who used an out-of-state driver's license or non-driver ID to verify their identity. The *ElectioNet* entry screen for activities/batch elections/record of out-of-state driver's license state, has a button for this purpose.

SECRETARY OF STATE VERIFICATION

The Secretary of State shall send a letter to applicants who register without providing documentary evidence of domicile or identity and to voters who voted without evidence of identity. The Secretary of State shall conduct an inquiry regarding any letters which are undeliverable or where there is no response from the voter. The Secretary of State may contact local officials for assistance with verifying information and/or to request copies of Voter Registration Forms and/or Affidavits to fulfill these responsibilities. RSA 654:12, V(c), (e)-(f); RSA 659:13, IV(b).

Town Elections Town Clerk Duties

CLERKS SHALL CREATE ELECTION IN ELECTION^{NET}

The clerk shall create each local election in *ElectioNet*, following the guidance in Help>Instructions>Election – How to Create a Local Election 2022. This is necessary to be able to associate absentee ballot requests, mailing, and receiving

completed absentee ballots, printing the checklist, voter history, and other *ElectioNet* records with that election. RSA 654:31 requires the Secretary of State to provide political parties, political committees, and candidates for county, state, or federal office who purchase lists of registered voters, with each voter's history including each "municipal election" for the preceding 2 years. RSA 654:31, IV. Clerks, therefore, must enter an election into *ElectioNet* for all separate school district and village district elections to enable the supervisors to scan in voter history for those elections. When a town and school district election are held together, the name of the election in *ElectioNet* must reflect that it is both a town and school district election.

FILING FOR OFFICE – TOWN ELECTIONS

If the town uses non-partisan official ballots, candidates who desire a certain office must file a declaration of candidacy with the town clerk during the 10-day filing period. RSA 669:10 through RSA 669:21.

WITHDRAWAL OF CANDIDACY PROHIBITED – TOWN ELECTIONS

After a filing period for a non-partisan town election, or after a caucus has certified a nominee for a partisan election, the town clerk may not accept withdrawals of candidacy unless the candidate dies or makes oath that he or she does not qualify because of age, domicile or incapacitating physical disability acquired subsequent to his or her filing. RSA 669:22.

ABSENTEE VOTING – TOWN ELECTIONS

Towns using official ballots must provide for absentee voting whenever official ballots are used.

"The general court shall provide by law for voting by qualified voters who at the time of the biennial or state elections, or of the primary elections therefor, or of city elections, or of town elections by official ballot, are absent from the city or town of which they are inhabitants, or who by reason of physical disability are unable to

vote in person, in the choice of any officer or officers to be elected or upon any question submitted at such election." New Hampshire Constitution, Part 1, Article 11. (emphasis added).

Absentee ballots must be printed on the same color paper as regular ballots and similarly endorsed. The words "Absentee Ballot" shall be printed on them. Absentee ballots and other absentee voting materials must be prepared and sent out by the town clerk. RSA 669:26 through RSA 669:29.

Signed requests for an absentee ballot may be sent by facsimile or e-mail attachment to the clerk. RSA 657:12; RSA 657:13.

Upon request for an e-mailed absentee ballot from a UOCAVA voter, the clerk shall send the absentee ballot, affidavit, and instructions via e-mail. RSA 657:19; RSA 669:25.

SAMPLE BALLOTS – TOWN ELECTIONS

The town or city clerk shall print at least ten sample ballots for each town or ward. RSA 656:18; RSA 656:28. RSA 669:25 provides that in towns using the official ballot, *"the town election shall be conducted in the same manner as a state general election as provided in RSA 658 and 659 . . ."* While the chapter is otherwise silent regarding posting sample ballots, best practice is to post sample ballots in the same manner as is required for state elections.

PRINTING OFFICIAL BALLOTS – TOWN ELECTIONS

The order of offices on an official ballot is left to the discretion of the town clerk for local elections. Most town clerks print the offices that a town is required to elect first on the ballot - moderator, selectmen, town clerk, board of supervisors of the checklist. Optional offices such as auditor, sewer commissioners, constable, etc. are usually printed further down the ballot. Following the names printed on the ballot under the title of each office, there shall be as many blank lines as there are persons to be elected to that office for the purpose of write-in votes. Names must be printed pursuant to RSA 656:5-a. See candidate name rotation

chart on page 114, and page 435.

A candidate must specify the form of his or her name to be placed on the ballot. For State offices, a candidate must use his or her legal name in any combination provided the name designated is not deceptive. RSA 655:14-b. Nicknames are permitted in limited circumstances.

Questions to voters, authorized to be printed on an official ballot, may be printed beneath the offices to be filled or on a separate ballot at the discretion of the town clerk. Questions must be followed by the words "yes" and "no" with boxes or ovals for the voter to indicate his or her preference. RSA 669:23.

TIE VOTES

In the case of a tie vote at any town election, the winner shall be determined by lot by the town clerk in the presence of the candidates who are tied, if upon notice from the clerk, they choose to be present. RSA 669:36

RACES DETERMINED BY WRITE-IN VOTES

If the person receiving the most votes for an office declines to take the oath and assume office, a vacancy is created. RSA 669:61; RSA 652:12

"A "vacancy" shall occur in a public office if, subsequent to his or her election and prior to the completion of his or her term, the person elected to that office: . . . IV. Fails or refuses to take the oath of office within the period prescribed in RSA 42:6 or to give or renew an official bond if required by law . . ." RSA 652:12.

The person or board with authority to fill a vacancy fills the seat by appointment. While the appointing authority may consider others who received write-in votes for appointment, those individuals have no right to the seat.

Town Election Recounts

REQUEST FOR RECOUNT IN TOWN ELECTIONS

A candidate for town office may request a recount of the ballots cast. The application

must be in writing and submitted to the town clerk with the appropriate fee. The last day to apply for a recount is 5 PM on Friday following the election. The deadline for requesting a recount of a question that appeared on the official ballot of the Town, on a question that affects only the Town, is 7 days after the meeting or special meeting. RSA 669:30; RSA 669:31; RSA 669:32; RSA 669:33; RSA 669:34; RSA 669:35; RSA 40:4-c; RSA 40:4-d.

RECOUNT FEES

Recount fees that must be paid go up based on the percentage difference in votes received by the winner and the person requesting the recount, as determined at the election night count.

If the person requesting the recount wins the recount, refund the fee. Also, if the recount results in a difference of less than one percent, any charge made beyond the statutory fee must be refunded.

"I. The clerk shall notify each of the candidates for the office for which there is to be a recount at least 3 days prior to the day appointed for the recount of ballots. No other notice shall be required.

II. The applicant shall pay to the town clerk, for the use of the town, the following fee:

(a) If the difference between the vote cast for the applying candidate and a candidate declared elected is less than one percent of the total votes cast, the fee shall be \$10.

(b) If the difference between the vote cast for the applying candidate and a candidate declared elected is between one percent and 2 percent of the total votes cast, the fee shall be \$20.

(c) If the difference between the vote cast for the applying candidate and a candidate declared elected is between 2 percent and 3 percent of the total votes cast, the fee shall be \$40.

(d) If the difference between the vote cast for the applying candidate and a candidate declared elected is greater than 3 percent of the total votes cast, the candidate shall pay the fee as provided in RSA 669:31, II(c) and shall agree in writing with

the town clerk to pay any additional costs of the recount.

III. If any person who has applied for a recount is declared elected by reason of the recount, the town clerk shall return to the person within 10 days of the recount all fees paid at the time of applying.

IV. If any person who has applied for a recount loses the recount by a margin of less than one percent of the total votes cast, the town clerk shall return to the person within 10 days of the recount any fees that were paid in excess of those required by subparagraph II(a)." RSA 669:31.

SCHEDULED TIME FOR THE RECOUNT

The clerk then appoints a time for the recount that is not earlier than 5 days, nor later than 10 days after receipt of the application. This period allows all recounts requested for an election to be held at one time if the clerk so wishes. The clerk must notify each candidate of the scheduled date of the recount at least 3 days prior to the recount. RSA 669:30; RSA 669:31. It is recommended that the clerk consult with the other members of the Board of Recount (moderator and selectman for towns; School District moderator and School Board for School Districts) when scheduling the recount.

ADVANCE WRITTEN NOTICE TO CANDIDATES OF RECOUNT

Send every candidate for the office(s) that is going to be recounted and each of the persons who have requested the recount of a question a written notice.

The clerk, ideally in coordination with the board of recount, sets the date, time, and location for the recount.

Include in the notice a written description of the process the board of recount plans to use to conduct the recount. If the process is going to involve the use of more than one team of officials counting, the notice should state the maximum number of teams anticipated. It should advise that the candidates or persons requesting the recount

must have a sufficient number of assistant observers present to observe each counting team. If they fail to have an observer for each team, they waive the opportunity to do so. The notice should state that each observer will be afforded an opportunity to see, but not touch or handle, each ballot. If the observer wishes to protest how the recount team is counting a particular ballot he or she needs to do so at the moment in time when that ballot is being counted by the team. That will be the one and only opportunity the observer will have to protest how the board counts that ballot.

BOARD OF RECOUNT

The board of recount conducts the recount. The board of recount is composed of the town clerk, moderator and selectmen. An election officer whose election is being recounted must disqualify himself or herself from the recount. The moderator would then appoint a replacement.

Give candidates or their representatives an opportunity to view, but not handle, the ballots at the recount and to record any protests he or she may have to how a particular ballot is counted. RSA 669:32.

RECOUNT PROCEDURES

The Board of Recount has responsibility for determining the process for conducting the recount. The Secretary of State has adopted rules of procedure for recounts. Boards of recount may wish to consider adopting similar rules. See Model Rules at page 433.

RECOUNT ON BALLOT QUESTION

Any 10 voters may request a recount of a question voted on by the town by the Australian (secret) or nonpartisan ballot, by applying to the town clerk before the expiration of 7 days from the date of the election. The fee is \$10. The clerk shall set the time for the recount not earlier than 5 days nor later than 10 days after the receipt of the application. RSA 40:4-c.

RESEALING OF BALLOTS

Following the recount, the clerk reseals and preserves the ballots until the contest is settled and all appeals have expired or for at least 60 days, whichever is longer. RSA 669:33; RSA 33-A:3-a.

RECORD – OATH OF OFFICE

The town clerk shall make a record of every oath of a town officer taken in open town meeting at the time of the election, and of every such oath taken before him or her at any other time and place. The town clerk shall record and keep on file every certificate of an officer being sworn in before a selectman or justice of the peace. RSA 42:8. See oath of office at Page 317.

UPDATE ELECTION OFFICIALS IN ELECTION_{NET}

Clerks shall update who holds each election officer positions in *Election_{Net}* once the recount period, including any appeals, has ended and newly elected officers have taken the oath of office. RSA 654:45, VII; RSA 657:19-c. The Secretary of State relies on this information to send local officials information on elections and invitations to training.

ASSUMING OFFICE

No person shall assume a town office until after the time period for requesting a recount is over, except as addressed below. If a recount is requested for a town office, no person shall assume that office until the recount is completed. RSA 669:10; RSA 669:34. Once a recount is completed, the outcome determines when the candidate assumes office.

If the candidate who was declared the winner at the original count on election day is also declared the winner at the recount, the law makes no provision for delaying the declaration or certification of the results or the assuming of office. The candidate may take the oath of office, and assume office at any time following declaration of the results

of the recount, provided the oath is taken by the deadline established in RSA 42:6; RSA 669:34.

If a candidate other than the candidate originally declared the winner by the moderator on election day is found to be the winner after the recount, and no appeal to the superior court is taken from the recount, the candidate may assume office on the sixth day following the date of the completion of the recount, provided the oath is taken prior to the deadline established in RSA 42:6. If an appeal is taken, the person may not assume office until the superior court has issued a final ruling on the appeal. RSA 669:34.

Because the term of office continues until the election and qualification of the office holder's successor, the person holding the office prior to the election would continue to hold the office until either the certification on the sixth day or if the recount is appealed, until the Superior Court issues an order, and the person declared elected takes the oath of office. RSA 41:3; RSA 669:10, I; RSA 669:34.

Any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6. RSA 42:3.

City Clerks Establish Uniform Practices

RSA 659:9-a provides that the city clerk shall establish uniform practices and procedures for all ward polling places. The reference to "chief elections officer" in this statute and RSA 652:14-a were removed.

CHECKLIST OF RESPONSIBILITIES

CLERK

STATE ELECTIONS

Before The Election

- _____ Take the oath of office before engaging in the duties of the position.
- _____ Establish and maintain email and office street address with election information and polling locations in *ElectioNet*.
- _____ Accept voter registration applications.
- _____ Post notice of filing period.
- _____ Verify primary petitions. Supervisors verify nomination papers.
- _____ Post sample ballots.
- _____ Print election materials for local elections.
- _____ Mail absentee ballot applications.
- _____ Send confidential voters an absentee ballot automatically.
- _____ Process received absentee ballots.
- _____ Arrange for nursing home absentee balloting (recommended).
- _____ Notify absentee voters of how a voter can track his or her ballot.
- _____ Maintain a list of absentee voters.
- _____ Comply with mandatory office hours requirement.
- _____ Work with the selectmen, moderator, and other election officials to develop a continuity of operations plan (COOP) which anticipates common emergencies and effective local responses.
- _____ Notify the supervisors upon receipt of an official notice of the death of any person age 18 years or over and separately of probable matches between death and voting records.
- _____ Deliver to the supervisors any application for party change submitted between the first Wednesday in June and the day before the state primary election, for action by the supervisors after the primary election.
- _____ Assist moderator, if requested, with recruitment/training of poll workers. (Note: this is a formal requirement of moderators, but it is common practice that clerks may be involved.)
- _____ The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office to all election officials.
- _____ Test all ballot counting devices and memory cards at a publicly noticed test, maintaining the security logs for each device, storage bag, and memory card.
- _____ Test one4all accessible voting tablet, including connecting the printer and printing one test ballot.
- _____ Prepare a supply of absentee ballots and affidavit envelopes for accessible voting on election day outside the polling place.
- _____ Set aside at least one official ballot of each type being used at the election for copying if

needed.

_____ Promptly open all boxes of ballots received from the Secretary of State. Examine the ballots to ensure all the ballots you received are the correct ballot for your polling place(s). Notify the Secretary of State immediately of any problems.

_____ If the counting of ballots to establish a starting inventory, as required by RSA 658:31, occurs before election day, post a notice of the date and time when the ballots will be counted and collaborate with the Moderator in conducting a public count.

Election Day

_____ Bring the ballots, absentee ballots, checklist, one4all accessible voting system, and election forms supplied by the Secretary of State for election day. In ballot counting device towns, the clerk must also bring the AccuVote device.

_____ Deliver the returned absentee ballot envelopes/applications to the moderator.

_____ Record voters at the checkout table using a checklist (not needed if using a ballot counting device). This task is often assigned to a deputy or assistant clerk.

_____ Assist in counting ballots, if requested by moderator.

_____ If a ballot counting device is used, with the Moderator, sign at the bottom of the copies of the long results tape to be kept by the clerk and the copy to be sent to the Secretary of State.

_____ Report election results on Return of Votes form by delivering to a State Police pick up point on election night. Include the one4all tablet. In ballot counting device polling places, print a copy of the device long results tape and include with the Return of Votes.

_____ Retain copies of the Return of Votes, Ballots Cast Form, Names on Checklist, Moderator's Certificate, Moderator's Worksheet, tally sheets and reconciliation worksheets.

_____ With the moderator, certify the checklist used on election day as marked by ballot clerks.

_____ Preserve cast and counted, as well as spoiled and unused ballots in sealed containers for at least 22 months following the election.

_____ After the polls are closed, work with the ballot clerks to reconcile the voters on the check-in checklist with the check-out checklists (hand count towns) or ballot counting device results tape and hand counted ballots.

_____ Upon receipt of the sealed boxes of ballots and absentee voting materials, sign and enter the date and time on the seal. Fill in the first entry on the ballot chain of custody log.

After The Election

_____ Store sealed ballots for the time required by state and federal law. Promptly destroy the boxes of sealed ballots upon expiration of the retention period if there are no pending lawsuits or other preservation orders. Make entries on the ballot chain of custody log each time the stored sealed boxes of ballots are moved, transferred, or destroyed.

_____ Enter, maintain, and keep up to date election official contact and polling place location/hours in *ElectioNet*.

_____ Retain voter registration forms.

_____ Preserve marked checklist for a minimum of 7 years.

Duties of Clerks

_____ Preserve affidavits and absentee voting materials for a minimum of 22 months.

Town Elections

_____ Accept declaration of candidacies during the 10-day filing period (if the town uses non-partisan official ballots).

_____ Manage absentee voting (for towns using official ballots).

_____ Upon request for an e-mailed absentee ballot from a UOCAVA voter who is entitled to vote a full absentee ballot (not a FOO voter), send a town absentee ballot.

_____ The town or city clerk shall print at least ten sample ballots for each town or ward.

_____ Print official ballots.

_____ In the case of a tie vote, determine the winner by lot.

_____ Manage recounts, including accepting applications, scheduling a time for the recount, serving on the board of recount, and resealing of ballots.

_____ Record oaths of office for every town officer.

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Responsibilities

Selectmen for towns are responsible for budgeting for elections and selecting an accessible polling place with adequate parking. The selectmen must also provide sufficient staff to avoid long lines. The selectmen must work with the moderator, clerk, and other officials to plan for emergencies, establish polling hours, and set up the polls before the opening of the polls. Best practice is to have a written continuity of operations plan (COOP) which anticipates common emergencies and effective local responses. See model plan at page 293.

Selectmen elected in a city ward are responsible only for election duties, unless otherwise provided in a city charter.

New Hampshire’s Constitution requires the selectmen, or their designees, to be present at the polls on election day. New Hampshire Constitution, Part 2, Article 32. Duties include helping mitigate lines and guide voters on election day, participating in ballot counting under the supervision of the moderator, and signing seal(s) on the sealed boxes of ballots after counting is completed at the end of the day. (See seal on page 396.)

Selectmen should review new election laws herein to determine resources required for elections.

Pre-Election Day

APPOINTING INSPECTORS OF ELECTION (BALLOT CLERKS)

If the two major political parties fail to make appointments before July 15, the selectmen shall appoint 2 inspectors of election from the two political parties. The moderator will designate chosen inspectors of election as ballot clerks.

If the number of voters qualified to vote at a polling place exceeds 2000, the statutes provide that one additional inspector from each political party may be appointed for each 1500 qualified voters. Moderators may also require additional inspectors of election if needed to effectively manage the election.

Best practice is to have one check-in station for every 600 expected in-person voters. Ideally, staff each check-in station with two ballot clerks, one affiliated with each political party. Consider voter turnout at the most recent similar election and the comparative number of voters on your checklist to estimate expected in-person voting. For example, for a general election

in a year when U.S. President is on the ballot, start with the turnout at the last general election where the U.S. President was on the ballot (4 years previous). Adjust the estimate up or down based on the percent change in the number of voters on your checklist. Consider turnout trends at the most recent elections and trends in use of absentee voting.

If warranted adjust your estimated in-person turnout accordingly.

The objective is to have a sufficient number of check-in stations so that a registered voter will check in and receive a ballot promptly. Each check-in station serves voters whose last name starts with a letter in one section of the alphabet.

A registered voter should not have to wait more than 15 minutes to get a ballot, most should receive their ballot more quickly.

Moderators report that it is beneficial, particularly at high-volume polling places and high turnout elections, to have two or more shifts of ballot clerks. People are more willing to serve in this role when it requires only half of the day. The quality of record keeping is improved. Ballot clerks who have only worked 5 or 6 hours can more conveniently and accurately assist with ballot counting after the polls close to voting.

An inspector of election shall be registered to vote at the polling place where he or she serves and shall be affiliated with one of the two major political parties. Each inspector shall be sworn to the faithful performance of his or her duties and shall hold office for 2 years from August 1 in the year in which he or she is appointed or until a successor is appointed and qualified. RSA 658:2; RSA 658:4.

In making appointments of inspectors of elections, the selectmen, in consultation with the moderator, may designate a list of alternates, who shall meet the same qualifications as inspectors of elections.

These alternates shall be called in numerical order to serve in case one or more of the principal appointees fails to accept the appointment or is otherwise unavailable to perform his or her duties. RSA 658:5.

If an inspector of election is absent from any election, the selectmen shall appoint replacement inspectors using the list of alternate inspectors. RSA 658:22.

SELECTING THE POLLING PLACE

Selectmen are responsible for selecting a proper site within the town or ward for the polling place, ensuring it is accessible, providing a proper number of voting booths, establishing a rail and providing the necessary supplies. RSA 658:9. The polling place must be:

- Equipped with sufficient parking spaces to accommodate the expected voter turnout;
- Located where roads/streets can safely accommodate the volume of traffic expected;
- Have sufficient space to accommodate the required areas for voter registration, check-in, the required number of voting booths/screens, and some public space outside the guard rail to allow observation of the election;
- Warmed;
- Lighted – Additional lighting should be provided where existing room lighting is insufficient to comfortably read the ballot. Towns and cities are encouraged to equip voting booths with inexpensive lamps equipped with a magnifying lens. New Hampshire law requires that booths be “well lighted;”
- Furnished with proper supplies (see list starting at page 351);
- Easily accessible to the elderly and to persons with disabilities;

- Equipped with a United States flag inside the building and weather permitting flown outside the building during election day;
- Equipped with a guardrail constructed and placed so that only persons inside the rail can approach within 6 feet of the ballot box and any voting booth (This requirement for a rail can be satisfied with a rope or ribbon, but it is important to the proper layout of a polling place.);
- Organized with the guardrail positioned so that the a voter can only access the voting booth by entering into the area enclosed by the guardrail. The guardrail must be positioned in relation to the check-in and check-out tables such that once a voter has checked in and received a ballot it will be awkward to leave the railed in area with a ballot. Ballots should be marked only within the voting booth or voting screen. Proper positioning of the rail can be used by the selectmen and the moderator to discourage improper voting practices;
- Arranged so that the voting booths and voting screens are in plain view of the election officers;
- Arranged so that the ballot box or ballot counting machine is in plain view of the election officers and to the public area outside the guardrail;
- Equipped with no less than one voting booth/screen for every 100 voters qualified to vote at the polling place at a presidential general election, one for every 125 voters at other state general elections, and for all other state elections, including the state primary election, one for every 150 voters. For all city, town, school district, and village district elections, one booth/screen for every 200 voters is sufficient. Table top voting screens may be used to accommodate up to 50% of the total requirements for voting booths. RSA 658:9, V. Jurisdictions that have adopted Senate Bill 2 should analyze the length of their warrant/ballot for warrant articles and voting trends and consider adding additional voting booths to avoid excessive delays to voters seeking to cast their ballots. The Attorney General’s Office reports that a common complaint, especially in Senate Bill 2 towns, is an excessive delay resulting from an insufficient number of voting booths to accommodate the turnout of voters and the extended time required to mark ballots with a large number of questions;
- RSA 658:9 provides that “the number of booths erected at the polling place shall be the number estimated by the selectmen to be necessary for the efficient conduct of the election plus any additional number requested by the moderator.” Therefore, the selectmen should consult the moderator when determining the number of booths and voting screens that will be provided);
- RSA 658:9, V also specifically provides that each polling place shall have no less than two standard voting booths, one specialized voting booth easily accessible to the elderly and to persons with disabilities, and two table-top voting screens;
- Portable booths set up in pods of up to 4 voting stations may be used in lieu of booths described in RSA 658:9, II and screens described in RSA 658:9, IV. Each voting station

in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep and the edge of the table facing the voter no less than 25 inches in width. The third open side of the voting station shall be enclosed by a curtain large enough, and designed in a way to give the voter privacy. RSA 658:9, VI;

- Equipped with at least one voting booth specially designed in conformance with RSA 658:9, III, to be easily accessible to persons with disabilities and the elderly. The Secretary of State has provided every polling place in the state with a large voting booth that satisfies this requirement. This booth must be used at all elections. Each polling place must also have at least two table-top voting screens for use at an election. The formula for determining the number of specialized voting booths and table top screens necessary for an election is set forth in RSA 658:9, V;
- The selectmen should be prepared, or have town employees prepared, to deal with any facility-related problems, including emergencies such as fires and power outages, and minor problems, including burnt out light bulbs illuminating the polling booths, which might develop during voting.

Ballot Counting Devices

Selectmen (or the governing body of a city) may elect to use electronic ballot counting devices. Notify the Secretary of State if a decision is made to purchase or lease a device. RSA 656:40.

The make and model of all electronic ballot

counting devices either purchased or leased must first be approved by the Ballot Law Commission. RSA 656:40-43. The AccuVote optical scanning device, version 1.96.13, has been approved for use in New Hampshire elections.

BALLOT COUNTING DEVICES – NO INTERNET CONNECTION

The Ballot Law Commission ordered that all ballot counting devices be modified to remove the modem and disable the serial port. April 9, 2010 Ballot Law Commission Order. RSA 656:42 has been amended to make it a statutory requirement that the device be incapable of connecting to the internet. *“No electronic ballot counting device shall have access to or be connected to the Internet.”* RSA 656:42, X.

Each ballot counting device must be tested prior to each election. RSA 656:42, II. See page 369 for security measures and testing procedures. Any person who knowingly violates the testing procedures established for ballot counting devices shall be guilty of a misdemeanor if a natural person, or a felony if a corporation. RSA 656:42, VI.

The statute making it a felony crime to tamper with a vote casting or ballot counting device also makes it a felony to tamper with software used in the casting or counting of ballots or to design such software so as to cause incorrect tabulation of the ballots. RSA 659:42.

EQUIPPING ADDITIONAL POLLING PLACE.

Selectmen are responsible for equipping any additional polling place.

Posting Of Warrant

Selectmen are responsible for posting the warrant at least 14 days before the election. The warrant states the date of the election or town meeting, the location of the polling place, offices to be elected, the questions that will be on the ballot, and the polling hours. RSA 658:1; RSA 669:2.

SPECIAL ELECTIONS

If a vacancy exists in the office of State Representative, the selectmen must determine whether a special election will be requested from the governor and executive council. If the representative district encompasses two or more towns, the selectmen from the towns should consult and seek to reach consensus regarding whether to request a special election. See additional details in: RSA 655:81, I.

Accessibility Of The Polling Place

The New Hampshire Constitution, Part 1, Article 11, provides in pertinent part:

“Voting registration and polling places shall be easily accessible to all persons including disabled and elderly persons who are otherwise qualified to vote in the choice of any officer or officer to be elected or upon any question submitted at such election.”

The New Hampshire Constitution, State statutes, and federal statutes further establish that for every election the polling place and the voting process must be easily accessible. In order for a polling place to be considered easily accessible, the following conditions must be met:

Where parking is provided for the polling place, there shall be at least one van-accessible parking place designated with the international symbol of accessibility. The dimensions and requirements of the parking space are outlined in RSA 658:9-a, I. While state law provides that the provisions of this paragraph may be adopted by each municipality on an optional basis, the federal ADA guidance from the United States Department of Justice mandate “One of six (or fraction of six) accessible parking spaces, but always at least one, must be van accessible.”

<https://www.ada.gov/votingck.htm>

(last visited 8/4/2022).

The paths to and from the polling place shall

comply with accessible route requirements set forth in RSA 658:9-a.

If there is a curb in a path of travel to the accessible entrance, there shall be a curb ramp that complies with the NH building code, RSA 155-A, and the ADA.

Where a ramp is provided it shall comply with the NH building code, RSA 155-A, and the ADA.

Entrances, doors, and doorways must comply with the NH building code, RSA 155-A, and the ADA. There must be at least one primary entrance to the polling place that is accessible to elderly persons and persons with disabilities that is clearly marked with the international symbol of accessibility. If there are entrances that are not accessible, they must have signs posted directing voters to the accessible entrance.

The path of travel inside the polling place must comply with the accessible route requirements of the NH building code, RSA 155-A, and the ADA.
See RSA 658:9-a.

The Help America Vote Act of 2002 places great emphasis on ensuring the accessibility of the voting process. HAVA funds the purchase of devices that assist persons with disabilities and the elderly to vote privately and independently. The Secretary of State can provide more information and has staff available to consult with local election officials. See further discussion of accessibility starting at page 271.

Information on polling place accessibility is also available from the United States Department of Justice at: <http://www.usdoj.gov/crt/ada/votingck.htm> (Last Visited 8/4/2022).

Election Day Duties - Selectmen

POLLING HOURS

The selectmen or the governing body of a town or the governing body of a city sets the polling hours.

At all state elections in towns and cities the polls shall open not later than 11:00 AM and shall close not earlier than 7:00 PM. In cities, the city council shall determine the polling hours no later than 30 days prior to a state election.

An exception to the 11:00 AM to 7:00 PM time frame is found in those communities which voted to open the polls at 8:00 AM. The polling hours in those communities would be 8:00 AM to 7:00 PM. Once these hours have been set by a vote of town meeting, however, they may be altered only by a vote of town meeting. RSA 659:4-a.

As an alternative to the procedures established in RSA 659:4-a, I-III and described above, the governing body of a town may extend the hours of polling in the town. Any extension of hours adopted by a town may not take effect sooner than 60 days after its adoption.

Municipalities are encouraged to establish a uniform polling place and polling hours for all elections. It helps a voter to know when and where to vote if the polling location and times are kept constant.

The Attorney General's Office reports that the failure to open the polls at the advertised time is a common problem. In some cases, voters assert that the effect of failing to open on time is to deny them the opportunity to vote as work or travel commitments preclude their waiting extended periods of time or returning later in the day.

Every effort must be made to ensure the polls open at the pre-determined and advertised time. Research also indicates that at many polling places the longest lines of the day occur as a result of voters queuing up prior to the opening of the polls. For polling places and elections where this has occurred in the past, consider adding staff and additional checklist check-in stations for the first hours of polling. RSA 659:3; RSA 659:4; RSA 659:4-a; RSA 659:6; RSA 659:8; RSA 669:25; RSA 669:45.

ATTENDANCE AT ELECTION

For state primaries and general elections, the New Hampshire Constitution requires the attendance of the selectmen. New Hampshire Constitution, Part 2, Article 32. *"If a selectman is absent or unable to perform his or her duties for all or any part of the day at any state election, the selectman is authorized to appoint a selectman pro tem to perform his or her duties..."* RSA 658:21-a.

If the absent selectman has not appointed a selectman pro tem, the moderator is authorized to appoint a selectman pro tem. RSA 658:21-a.

ASSIST MODERATOR AS REQUESTED

Selectmen are election officers. RSA 658:23; RSA 658:24; RSA 659:9. Moderators may suggest that selectmen assist with setting up and assisting voters in using the accessible voting system, greeting and directing voters to the correct intake lines, staffing the "No Photo ID" table to assure proper voter throughput, counting, tallying, and reconciling ballots, voters and votes, and checking the voting booths regularly to ensure that a writing instrument and the instructions to voters signs are present and that any electioneering materials are removed. Selectmen are authorized to accept the oaths for those who must complete Challenged Voter Affidavits, Qualified Voter Affidavits, or Domicile Affidavits.

One4all Accessible Voting System

The Accessible Voting System, named "one4all" is a tablet-based system which the Secretary of State provides. The one4all must be available for use by voters. The one4all must be placed in the accessible voting booth provided by the Secretary of State for that purpose. This booth is ideally set up near the moderator's post by the ballot box/ballot counting device to permit the moderator to readily receive the ballot by hand in a privacy sleeve. Turn on and test

the one4all before the polls open. Check the one4all system regularly throughout the day. If the screen is dark during an election, the system has not been turned on as required. HAVA Section 301.

COUNTING OF BALLOTS

Selectmen shall participate in the counting process as directed by the moderator, unless a selectman is a candidate for a non-election official office. RSA 659:60; RSA 658:24; New Hampshire Constitution, Part 2, Article 32.

SECURING THE BALLOTS

After the ballot counting is completed and the results announced, selectmen or their designee(s) shall sign the label for resealing the ballots on the container indicating the number of cast, canceled, and unused ballots in the container. The Secretary of State provides each polling place with boxes labeled in red ink "Ballots" for ballot storage and boxes labeled in blue ink "Absentee Voting Materials" for storing absentee ballot envelopes and applications. Local officials must supply their own secure packing tape. The Secretary of State provides red tamper evident tape to go on top of the packing tape.

Selectmen should check the Moderator's Worksheet, and compare the figures for ballots cast, voters, and votes to ensure all ballots are accounted for and sealed into boxes. RSA 659:95; RSA 659:97; RSA 659:98. Do not seal election night tally sheets in the ballot boxes.

The clerk must maintain a chain of custody log starting with the transfer of the sealed boxes of ballots from the Selectmen & Moderator to the Clerk. See instructions at page 397 and form at page 399.

DELIVERY OF BALLOTS TO CLERK

The selectmen or their designees and the moderator or his or her designee shall deliver the sealed containers to the town or city clerk who shall in their presence enter in the time of day and shall sign his or her

name on the sealer. RSA 659:98

Warrant Articles

Upon petition of 25 or more voters or 2 percent of the registered voters, whichever is less, but in no event less than 10 voters, presented to at least one selectman no later than the fifth Tuesday before town meeting, the selectmen shall insert onto the warrant for that meeting the petitioned article.

RSA 39:3. provides that corrections by the selectmen to petitioned warrant articles "*shall not in any way change the intended effect of the article . . .*" Every article included in a warrant for a town meeting shall be acted upon before final adjournment of the town meeting. RSA 40:11.

CHECKLIST OF RESPONSIBILITIES

SELECTMEN

Before the Election

- _____ Take the oath of office before engaging in the duties of the position.
- _____ Responsible for budgeting for elections.
- _____ Select an accessible polling place with adequate parking and sufficient space, warmth and lighting.
- _____ For town elections the selectmen (or the governing body of a town or city) set the polling hours. For state elections the polling hours are set by a vote, first at town meeting, and then a vote at the next general election. RSA 659:4-a requires the polls be open no later than 11 AM and closed no later than 7 PM.
- _____ Work with the moderator, clerk, and other election officials to develop a continuity of operations plan (COOP) which anticipates common emergencies and effective local responses.
- _____ Appoint a minimum of two inspectors of elections (ballot clerks) if the two major political parties fail to make appointments, plus alternates, in consultation with the moderator. Best practice is to have two ballot clerks staffing a check-in station for every expected 600 in-person voters (each station serves a section of the alphabet). Many towns and cities find it is easier to recruit more people to work 4 or 6 hour shifts rather than to recruit voters to work 12 hour shifts.
- _____ Provide sufficient staff to avoid long lines.
- _____ Selectmen (or the governing body of a city) may elect to use electronic ballot counting devices. If so, the town or city must notify the Secretary of State and select only manufacturers and models of ballot counting devices approved by the Ballot Law Commission.
- _____ Equip the polling place, including a US flag, proper supplies, guardrail, sufficient and suitably arranged voting booths, voting screens, and ballot box in plain view of the election officers.
- _____ Post the warrant at least 14 days before the election.
- _____ If a vacancy exists in the office of state representative, the selectmen must determine whether a special election will be requested from the governor and executive council.

ELECTION DAY

- _____ Be present at the polls on state primary and general elections (per NH Constitution, Part 2, Article 32). A selectman may appoint a designee to serve for some or all of election day in his or her place.
- _____ The moderator, town clerk, one of the selectmen or a justice of the peace may administer the oath of office to all election officials.
- _____ The selectmen should be prepared, or have town employees prepared, to deal with any facility-related problems, including emergencies such as fires and power outages, as well as minor problems such as burnt out light bulbs illuminating the polling booths, that might develop during voting.
- _____ Assist the moderator as requested.
- _____ If directed by the Moderator, test the One4all Accessible Voting System.

Duties of Selectmen

_____ Participate in ballot counting under the supervision of the moderator.

_____ Sign the ballot box seal after counting is completed and ballots are boxed for storage at the end of the day.

_____ Deliver the sealed ballot containers to the town or city clerk.

After the Election

Not Applicable

XIII. DUTIES OF GREETERS

RESPONSIBILITIES OF A GREETER

Greeters improve the voter's experience. They help reduce the likelihood of lines forming and unreasonable delays for voters.

Greet each voter as he or she arrives at the polling place.

If the voter is uncertain of whether he or she is registered as a voter, use the alpha voter checklist to verify whether the person is registered. At a primary, verify whether the voter is a registered member of the political party in whose primary he or she intends to vote. Best practice is to carry or have easy access to a posted alpha voter checklist.

The alpha voter checklist is similar to the check-in checklist, but it does not have bar codes printed on it. It, therefore, has more voters listed on each page.

A Greeter **cannot** electioneer or comment in any way that might influence who the voter votes for at the election. Do not comment on opinion-related questions about the candidates, issues, or parties that appear on the ballot for the election. The Greeter should say: "I cannot discuss that with you in the polling place, but perhaps I can answer any procedural questions you may have."

Direct the person to one of three starting points within the polling place:

- The "No Photo ID" table if he or she is registered but did not bring approved photo ID or is not registered and will need a photo taken to register; or
- The supervisors of the checklist if he or she is unregistered and does not have a photo ID; or
- The "Voter Check-in" line if he or

she is registered and has a photo ID

- Most polling places have multiple check-in stations, each serving one section of the alphabet. Help the voter find the correct check-in station for the first letter of the voter's last name.

Some people will come to the polling place serving a town or ward where the person previously lived or where the person works, but does not live. A person can only vote at the polling place that serves the town or ward where the voter is currently living, where he or she is domiciled. A person's domicile is where he or she has their one principal residence. See page 22 for a further explanation of domicile.

If the person is at the incorrect polling place, assist the person by identifying the correct polling place. If possible give directions. For towns/cities with multiple wards, the Greeter should carry, or have easy access to, a voting ward map or have easy access to a town/city street listing which shows which streets are in each ward.

Review the posted information in the polling place that informs voters about voting rights and procedures. Direct a voter with questions to the poster with information that answers their question.

When communicating with voters, Greeters should remember to: Wait, Recognize, Listen

- Wait. Suppress the instinct to quickly respond or cut off a question. Wait first to process the question, then formulate a reasoned and respectful response. Focus on how to recognize other people's feelings, anticipate their needs, and be sensitive, accommodating, and courteous in assisting the person.

Duties of Greeters

- Listen before speaking to understand exactly what the voter is feeling, seeing, needing, and trying to communicate. It is most important to remember to put assumptions aside so Greeters are better able to hear and understand a voter's responses.
- Focus on what you can do to assist the voter. Be a problem solver.
- Assume good intentions unless proven otherwise.
- Repeat back the voter's question, this acknowledgement will help ensure you understand their concern and let them know you are listening.
- Explain the law or voting procedure, referring to the posted guidance were appropriate.
- Offer the solution, i.e.:

You want to join the fourth line of voters waiting the check in, the one for names starting with M to Z; or

You need to go to the No ID Start here table to get your photo taken; or

You need to go to the Supervisors to get registered.

(AES) Acknowledge, Explain, offer Solutions is recommended by the Braver Angels communication workshop.

Be knowledgeable of valid forms of photo IDs (a list of which can be found on page 343)

Remind voters to have their photo ID ready, if they have one. Also remind voters that, if they do not have a photo ID, they can sign an affidavit and vote. Do not turn voters away because they do not have a photo ID.

Be knowledgeable about voting procedures, but answer only generic procedural questions on voting. Answer only if you are certain of the correct answer. Direct voters to the posted information or the moderator if not

absolutely certain of the correct answer.

Assist in managing lines of voters, alleviating bottlenecks and communicating with other polling officials.

Alert the moderator when registered voters are required to wait in a line for more than 10 minutes to start checking in to obtain a ballot. The moderator needs to take action to mitigate lines if the wait time persistently exceeds 15 minutes.

Contact an election officer to help voters with disabilities locate the accessible voting booth and one4all accessible voting system.

Direct voters seeking assistance with marking their ballots to the moderator.

Monitor for issues (such as voter intimidation, inference with the orderly election process, or electioneering) inside and outside the polling place. Notify the moderator if you observe any concerns.

Electioneering

Review the Election Procedure Manual section on Electioneering. Notify the moderator if any electioneering is observed inside the polling place or inside the no electioneering zone established by the moderator outside the building.

Inside the no-electioneering zone, no one can hand out campaign materials intended to influence the action of a voter to voters. The prohibition applies only to those campaign materials about candidates, issues, or parties that appear on the ballot at the election.

Follow the moderator's instructions about what to do and how to communicate with a voter who is wearing or holding campaign material that is intended to influence the actions of a voter inside the polling place. New Hampshire statutes have been revised to permit a person wearing clothing with electioneering messages on it, which cannot reasonably be removed or covered, to wear the clothing inside the polling place while actively registering to vote or voting. That

person will not be allowed to linger after voting to observe the polling place, while still displaying electioneering communication. RSA 652:16-h.

The moderator may prefer to be alerted and to address the concern himself/herself. If instructed by the moderator to communicate with the voter, you should say: "Electioneering is not allowed inside the polling place. Please remove/cover up/put down the campaign material that you are wearing/holding." If the voter refuses, refer the matter to the moderator.

A Greeter must understand and comply with the prohibition on election officers electioneering. "*No election officer shall electioneer while in the performance of his official duties. For the purposes of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote of a voter on any question or office. Any person who violates this provision shall be guilty of a misdemeanor.*" RSA 659:44.

Well-intended voters, particularly those who may know the Greeter, may innocently seek guidance on voting. The Greeter must politely decline and make no statement that could be misconstrued as intended to influence how the person should vote. The best practice is to plan a standard response/statement and review it with the moderator before you begin serving as a greeter. For example:

"I cannot answer that question because while I am serving as a greeter the law prohibits me from saying anything that might influence how you will vote today."

**PART 3 – EXPANDED GUIDANCE:
ACCESSIBILITY, CHALLENGES,
ELECTIONEERING, WRONGFUL VOTING,
COOP PLAN**

XIV. ACCESSIBILITY

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The New Hampshire State Constitution, state laws, and federal laws require every polling place to be easily accessible to all persons, including persons with disabilities and elderly persons who are otherwise qualified to vote. In order for a polling place to be deemed accessible, a number of specific conditions must be met. These conditions address the parking; the path of travel (to, from and within the polling place); the ramps (where provided); the entrance(s); the doors; the floor surfaces; and the voting booth(s). New Hampshire Constitution, Part 1, Article 11; RSA 658:9-a.

In 2007, the Legislature amended RSA 658:9-a, which sets forth the conditions for accessibility at polling places, to make clear that the statutory accessibility conditions must comply with the New Hampshire building code, RSA 155-A, and the Americans with Disabilities Act of 1990, 28 C.F.R., part 36.

Advice on what constitutes an accessible polling place is discussed below by category.

“Every polling place in which state elections are held shall be easily accessible to all persons, including persons with disabilities and elderly

persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. In order for a polling place to be considered accessible to elderly persons and to persons with physical disabilities, the following conditions shall be met; provided, however, that the provisions of paragraph I may be adopted by each municipality on an optional basis.”

RSA 658:9-a – Accessibility:

PARKING

“Where parking is provided for the polling place, there shall be at least one van-accessible parking space that is in compliance with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36 and designated with the international symbol of accessibility. The van-accessible parking space shall be at least 8 feet wide with an adjacent and parallel access aisle that is at least 8 feet wide and located on a level surface as close as possible to the accessible entrance. There shall be a clear path of travel without curbs or steps to the accessible entrance of the polling place from the van-accessible parking.” RSA 658:9-a, I: (Emphasis added)

NOTE: The requirements for accessible parking apply only to those polling places that have parking lots.

An accessible parking space must be at least 8-foot (96 inches) wide, 20-foot long and have a parallel and adjoining access aisle that is 20-foot long. The access aisle must be marked by diagonal stripes and have a “No Parking” sign so that all vehicles are prohibited from parking in the access aisle. The stripes are preferably, but not necessarily, yellow in color.

- Accessible parking spaces must be located on level surfaces.
- There must be at least 1 accessible parking space in parking lots of 1 to 25 total parking spaces; 2 accessible parking spaces in parking lots of 26 to 50 total parking spaces; 3 accessible parking spaces in parking lots of 51 to 75 total parking spaces; 4 accessible parking spaces in parking lots of 76 to 100 total parking spaces; 5 accessible parking spaces in parking lots of 101 to 150 total parking spaces; 6 accessible parking spaces in parking lots of 151 to 200 total parking spaces; and 7 accessible parking spaces in parking lots of 201 to 300 total parking spaces.
- At least 1 designated accessible parking space must be Van Accessible, that is, the parking space and an adjoining access aisle must each be 8-foot (96 inches) wide and be located as close to the main entrance as possible. See figure 1.
- Additional accessible parking spaces must be 96-inches wide but the adjoining access aisles need only be 60-inches wide and 20-feet in length. Adjoining access aisles may be shared by accessible parking spaces. See figure 2.
- All accessible parking spaces must be marked with an upright sign displaying the international symbol of accessibility that is mounted on a

post or wall directly in front of the accessible space(s) at a minimum height of 60 inches (measured vertically from the parking surface to the bottom of the sign). Signs must be mounted so that they can be viewed from the driver’s seat of a vehicle and in such a way that they cannot be obscured by a vehicle parked in the accessible space. See figure 3.

NOTE: Marked pavement may be helpful but it is not required and does not satisfy the requirement that accessible parking spaces be clearly marked.

ROUTE

“The paths of travel to and from the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.” RSA 658:9-a, II:

- There must be a completely clear path of travel from the accessible parking to the entrance of the polling place.
- The accessible route to and from the polling place must be at least 36-inches wide.
- The slope of the walks to and from the polling place shall be less than 5-percent or 1:20.
- If the accessible route to and from the polling place has a cross slope (side to side tilt) it cannot exceed a 2-percent grade or 1:50.
- The route, or path of travel, must have a continuous common surface that is not interrupted by curbing, bricks, steps and other such features, or by damaged or eroded pavement. Note: There is an exception to this requirement when a change in surface is used to indicate a curb ramp surface.

- The continuous common surface cannot have a change in level that exceeds ¼ inch.
 - A change in level of between ¼ and ½ inch must be beveled with a slope no greater than 1:12. If there is a change in level of ½ inch or more, then a curb ramp must be provided. See figures 4&5. Note: this addresses bumps or raised pavement, not slope.
- The accessible route surface must be stable, firm and slip resistant. (crushed stone, soft sand or mud is unacceptable). The accessible route must be kept clear of snow and ice.

CURBS

“If there is a curb in a path of travel to the accessible entrance to the polling place, there shall be a curb ramp that complies with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.”
RSA 658:9-a, III:

- Curb ramps must be provided whenever an accessible route crosses a curb.
- Curb ramps must be at least 36-inches wide, exclusive of flared sides.
- The maximum slope of a curb ramp shall be 1:12.
- The maximum slope of the side flares shall be 1:10. See figure 6.
- There must be a detectable warning, i.e., a change in the texture of the surface, extending the full width and depth of the ramp so that a blind or visually impaired person may know by touch that they are entering a ramp.
- There can be no protruding objects

such as trees, shrubs, awnings, signs, benches, or buckets that interfere with the 36-inch minimum clear width of an accessible route.

- Objects like phones and fire extinguishers may not protrude more than 4-inches from a wall into the accessible route. Objects that do protrude more than 4-inches into the accessible route must be mounted no higher than 27-inches from the surface so that they are detectable by a person using a cane. Objects hanging or mounted overhead must be higher than 80-inches to provide clear head room.

Note: If an object such as a fire extinguisher or trophy case protrudes more than 4 inches into the route of travel and is mounted higher than 27-inches, place an object (potted plant, waste paper basket) beneath it so that it can be detected by a person using a cane.

RAMPS

“Where a ramp is provided, the ramp shall comply with the New Hampshire building code, RSA 155- A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.” RSA 658:9-a, IV:

- Any part of an accessible route that has a slope greater than 1:20 is considered to be a ramp.
- The least possible slope must be used for any ramp. The maximum slope is 1:12, i.e., 1 inch of rise for every 12-inches of run.
- A ramp cannot exceed 30-feet in length (run) and 30-inches in rise. If a ramp must be longer than 30-feet in length or changes direction, then there must be a 60-inch long level platform between the inclined sections of the ramp.
- The clear width of a ramp shall be a minimum of 36-inches.

- There must be level landings that measure a minimum of 60-inches by 60-inches at the top and bottom of every ramp and at every change in direction in the ramp run (sloped portion).
- The cross slope (tilt) of a ramp cannot exceed 1:50.
- Ramp surfaces must be stable, firm and slip-resistant.
- Ramps and landings with drop-offs must have curbs, walls, railings or projecting surfaces that prevent a person from slipping off the ramp. Curbs must be a minimum of 2-inches high.
- Ramps are required to have handrails on both sides that must.

Be mounted between 34 and 38-inches above the ramp or ground surface measured from the top of the rail.

Have a clear space of 1½-inches between the rail and any wall.

Have gripping surfaces that are continuous and that do not rotate within their fittings.

Extend a minimum of 12-inches beyond the top and bottom ends of the ramp and be parallel with the ramp or ground surface.

Be rounded at the ends or returned smoothly to the floor, wall or post. See figure 7.

ENTRANCES

“Entrances, doors, and doorways shall comply with the New Hampshire building code, RSA 155-A, with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36, and with the following requirements:

- a. There shall be at least one primary entrance to the polling place accessible to elderly persons and persons with disabilities and clearly marked with the*

international symbol of accessibility.

- b. If there are entrances that are not accessible, they shall have signs posted directing voters to the accessible entrance.”*
RSA 658:9-a, V.

- There must be at least 1 primary accessible entrance to the polling place which is clearly marked with the international symbol of accessibility. Note: it is strongly recommended that the main entrance also be the accessible entrance.
- Doorways must have a minimum clear opening of 32-inches with the door open 90 degrees measured from the face of the door to the opposite stop. See figure 8.
- Two hinged or pivoted doors in a series must have between them a minimum space of 48-inches plus the width of any door swinging into the space between them. See figure 9.
- Doors in series must either both swing in the same direction or both swing away from the space between the doors. See figure 9.
- A door that requires a pull motion to open must have enough space (18 inches minimum) on the pull side of the door to allow for the safe maneuvering of a wheelchair. See figure 10.
- The pressure required to open an inside door must be 5 pounds or less. Note: There is no ADA standard for an outside door.
- Door hardware must be operable with a closed fist. See figure 11.
- Door hardware must be located between 34- to 48-inches above the ground.

Accessibility

- The floor inside and outside of each doorway of a polling place must be level for a distance of 48-inches plus the width of any door swinging in to the space.
- Automatic or power doors must operate in a manner and direction that is not hazardous. Note: automatic or power assisted doors are not required.
- The thresholds to the polling place must have changes in level of ¼-inch or less, or ½-inch or less if beveled.
- Floors in polling places must be level with no thick mats or carpets that could trip a person or block a wheelchair.
 - Note: the ADA establishes the maximum thickness of an accessible mat or carpet at ½-inch.

INTERIOR ROUTE

“The path of travel in the interior of the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.”
RSA 658:9-a, V.

- There must be a completely clear path of travel from the accessible entrance of the polling place to the registration tables, check-in tables, voting booths, ballot box, and the polling place exit.
- The accessible route within the polling place must be at least 36-inches wide.
- The accessible path of travel must have a smooth and continuous common surface that is firm, stable and slip-resistant.
- Thresholds or other changes in elevation between ¼- and ½-inch must be beveled with a slope no greater than 1:12. If there is a change in level of ½-inch or more, then a ramp must be provided. See figures 4&5.
- Carpets or mats are to be no thicker than ½-inch and secured.
- Objects that protrude more than 4-inches into the path of travel must be lower than 27-inches or higher than 80-inches above the floor.

ACCESSIBLE VOTING BOOTH

Each polling place must have at least 1 accessible voting booth which is easily accessible to elderly persons and to persons with physical disabilities. RSA 658:9, III; New Hampshire Constitution, Part 1, Article 11.

- Every accessible voting booth must have 3 sides enclosed and be well-lighted.
- Every accessible voting booth must have a front enclosed by a curtain or a door that swings outward. The door or curtain must extend to within 2-feet of the floor.
- The minimum dimensions are:
 1. Not less than 80-inches high;
 2. Not less than 60-inches wide at its front and back; and
 3. Not less than 60-inches deep.
- Every accessible voting booth must contain a shelf or a table that is the width of the booth, is 30- to 32-inches high at the writing surface, and has at least 28-inches of unobstructed space from the floor to the shelf bottom for leg clearance. See figure 12.

TABLE TOP VOTING SCREENS

Each polling place shall have table-top voting screens available for use in an election. These screens can fulfill up to 50% of the minimum requirement for standard voting booths. Elderly and disabled voters may find voting screens convenient, since they enable voters to sit down to complete their ballot. RSA 658:9, IV.

- Each voting screen shall consist of 3 panels, to be positioned on a table or similar surface so that when a voter is marking a ballot, he or she is provided privacy.
- Each screen panel shall be at least 17-inches high and 15-inches wide.

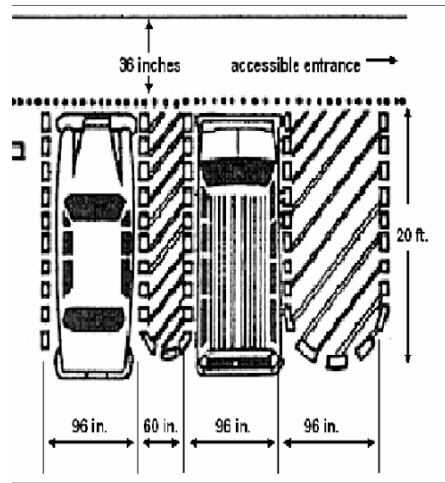


Figure 1

UNFORESEEN ACCESSIBILITY EVENTS

RSA 659:20-a (see page 243) provides an emergency stop-gap option in the event that an unforeseen accessibility issue arises. This law was adopted to address a situation where a voter attempted to access an ADA-compliant polling place, and was unable to do so. In this unlikely scenario a voter is able to vote absentee from outside the polling place during polling hours. Do not use this law in lieu of maintaining an accessible polling place, and it should not be used for a voter’s convenience in place of voting absentee when a voter can anticipate difficulty getting into the polling place. This provision was not created for the convenience of a voter who otherwise has the means to enter the building or vote absentee.

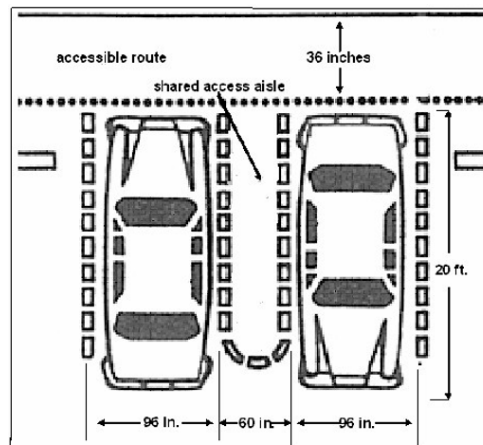


Figure 2

The U.S. Department of Justice has published a helpful guide to federal polling place accessibility requirements. The guide is available online at: <https://www.ada.gov/votingck.htm> (Last Visited 8/4/2022).

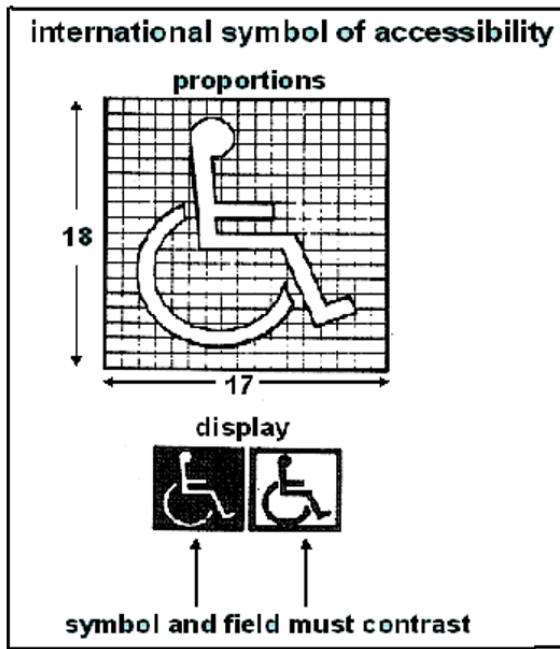


Figure 3

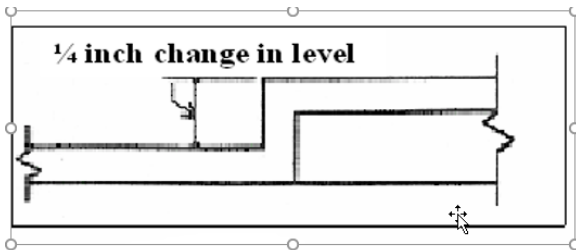


Figure 4

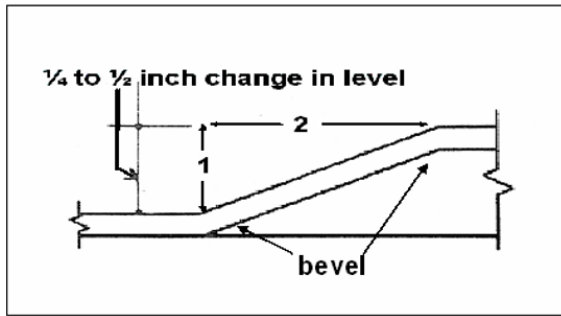


Figure 5

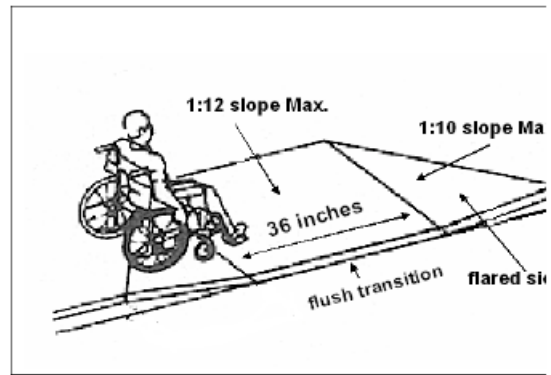


Figure 6

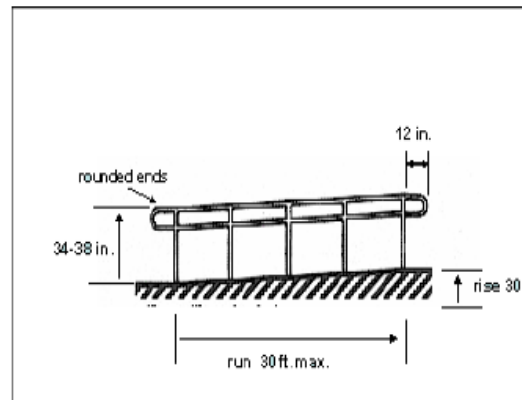


Figure 7

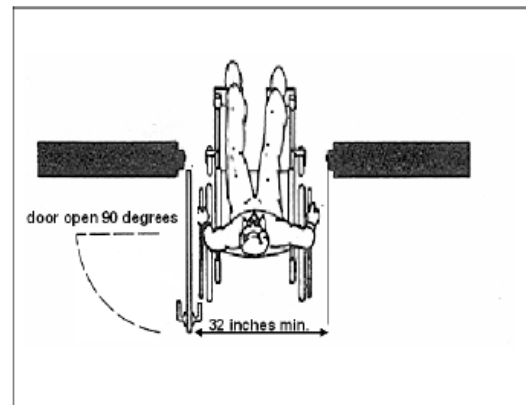


Figure 8

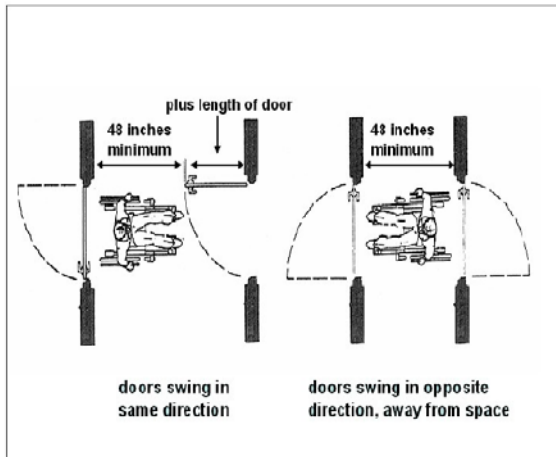


Figure 9

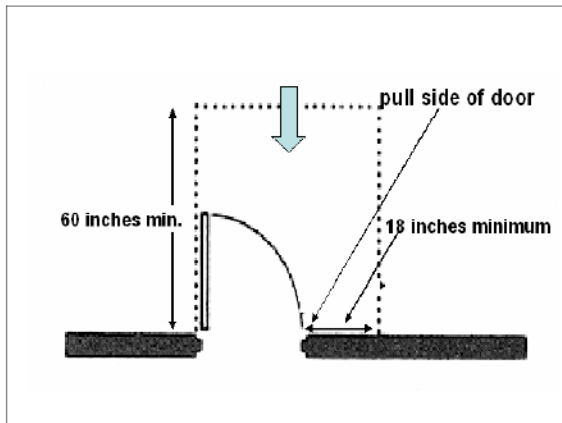


Figure 10

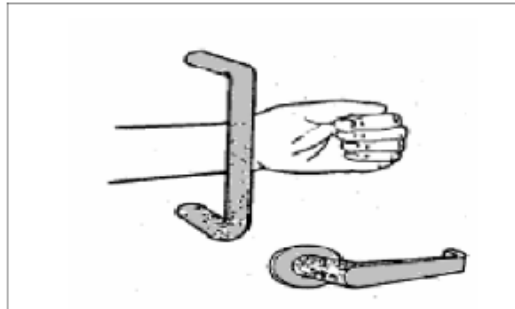


Figure 11

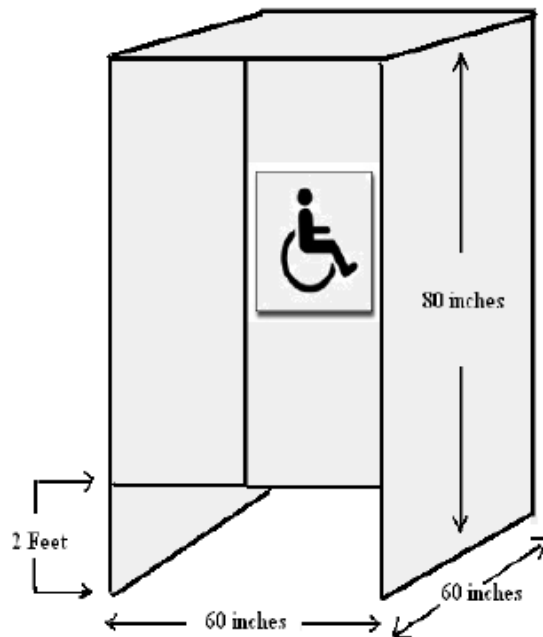


Figure 12

XV. CHALLENGES

WHO HAS THE RIGHT TO CHALLENGE A VOTER?

Any voter may have his or her right to cast a ballot in a given election challenged by any registered voter of the same town or ward. Election officials and challengers appointed in writing by the political party committees, or the Attorney General may also challenge a voter. RSA 659:27; RSA 659:27-a; RSA 666:4; RSA 666:5.

WHEN CAN CHALLENGES OCCUR?

Usually challenges occur at the time the voter is at the check-in table before receiving his or her ballot. A moderator or clerk may challenge an absentee voter who appears on the checklist, so long as they complete an "Asserting a Challenge" form. No voter or appointed challenger shall challenge a person's qualifications to be a voter at the registration table. RSA 659:27, III. Challenges may, however, be made at any point up until the ballot is deposited in the ballot box.

HOW DOES A CHALLENGE OCCUR?

A challenger must state a specific reason for the challenge. The challenger must complete an "Asserting a Challenge" form and sign it under oath. See "Asserting a Challenge" form at page 324.

CHALLENGERS AT THE POLLING PLACE

Any member of the public has a right to observe the conduct of an election from outside the rail. The public trust in elections, sometimes referred to as the legitimacy of elections, relies in part on conducting elections in the open. These individuals are colloquially known as "Poll Observers" or "Poll Watchers." These observers do not have any special legal status. In contrast, challengers appointed by a state political party or the Attorney General do have a special legal status.

Moderators must ensure that the polling place and rail are set up in such a manner that party challengers can see and hear people check in to vote. RSA 666:4. To the extent practical there should be a space from which any other interested member of the public can see and hear voters check in to vote. The moderator may ask a challenger to present the appropriate signed statement if he or she is from a political party committee or the Attorney General's Office.

TRACKING AND REPORTING OF WHO VOTED

The statutes give political parties the authority to designate a person to challenge individuals seeking to vote whom the challenger believes is not qualified to vote. The public nature of the election process, however, allows anyone who so desires to monitor people checking in to vote. A challenger or an observer may keep track of who has voted. They may use this information in any legal manner.

Campaigns identify voters who are likely to vote for their candidate(s) and use the process described above to learn who actually showed up at the polls. They contact those expected to vote who do not show up and encourage them to vote.

Individuals conducting this type of activity may seek more direct access to the checklist, to read off who has voted, or may ask to have names repeated more than once after a person announces his or her name for the ballot clerks. Moderators should establish and enforce a uniform policy regarding such requests. While appointed challengers have a right to stand where they can see and hear each voter check in, they do not have a right to disrupt the polling place. Generally, challengers have no right to stop voters by making a challenge until the voter is in line to get a ballot and checking in. Challengers have a right to have the voter announce his or her

Challenges

name aloud and for the ballot clerks to repeat the name two times, but otherwise they have no right to any further announcement of the voter's identity.

WHO IS A PARTY POLL WATCHER?

Challengers appointed by a party to work at a polling place are sometimes, incorrectly, referred to as poll watchers. Anyone present, who has not been designated a "challenger" in writing by the state chair of a political party, but is present on behalf of a political party or candidate may be called a poll watcher or observer. Such an individual has the same status as any other member of the public, even if they are present at the request of a political party and performing poll watching functions.

Poll watching functions include, but are not limited to, tracking who has voted and reporting this back to get-out-the-vote efforts or monitoring the conduct of the election and reporting concerns back to a political party election day legal operation. These party election day operations may have legal sounding names, such as "Voter Protection" or "Election Integrity." Well conducted political party election day legal operations often help moderators quickly identify concerns with election procedures or election official performance.

Some believe political party election day legal operations help assure voters of the legitimacy of an election outcome. Most poll watchers/observers willingly cooperate with the moderator. Best practice is for the moderator to openly communicate and to ask the watcher or observer to report concerns promptly to the moderator or the moderator's designee. Instances have been reported of such individuals documenting issues at the election for use in later litigation but not reporting the issues to the moderator. While legally permissible, this practice does not take advantage of the opportunity to get it right on election day. Open and friendly communication with challengers, poll watchers, and observers may encourage a

collaborative effort to ensure well run and fair elections.

Poll Watchers and Observers do not have any special rights in terms of being positioned in the polling place. Party appointed challengers do have a statutory right to be positioned where the challenger can hear and see voters checking in during voting. During vote counting party appointed challengers have a statutory right to a position outside the rail where they can hear and see the vote counting, but cannot be positioned within 4 feet of the ballots being counted.

During Registration and Voting:

"A guardrail shall be so constructed and placed so that only such persons as are inside such rail can approach within 6 feet of the ballot box and of the voting booths." RSA 658:9.

"No person not authorized by law may stand or sit within 6 feet of the ballot clerk for purposes of observing the check-in of voters without the express permission of the moderator." RSA 659:13-a.

"Any person shall have a right, as safety, welfare, and rights of voters permit, to observe in-person voter registration, wherever it is conducted, provided however, that the person may not be positioned within 5 feet of the voter registration table where the exchange of nonpublic information between the applicant for registration and the election official receiving the application may be heard or seen." RSA 654:7-c.

During Vote Counting:

"No ballot shall be placed within 4 feet of the guardrail during the counting of votes." RSA 659:63.

"Notwithstanding any other provision of law to the contrary, a challenger appointed pursuant to RSA 666:5 shall be assigned by the moderator or other election official presiding at the polling place to such position or positions within the polling place as will enable such challenger to see and hear the hand-counting of ballots for the tabulation of votes, and to maintain a line of sight on any electronic ballot counting device. Nothing in this section shall deprive any other person of the right to observe the hand-

Challenges

counting of ballots for the tabulation of votes as provided by law.” RSA 666:5-a.

BASIS FOR A CHALLENGE

All challenges, including those made by election officials, must be asserted using a reason set forth on the “Asserting a Challenge” form on page 324. A challenger must have personal knowledge or documentary evidence that the challenged voter is ineligible to vote.

CHALLENGE PROCEDURE

A voter or appointed challenger seeking to make a challenge must notify the moderator. The voter or challenger must identify the voter he or she seeks to challenge. The moderator must afford the challenger a reasonable opportunity to complete the “Asserting a Challenge” form, but may want to discuss the basis for the challenge first. Instruct both the challenger and the voter to talk directly to the moderator, not each other. In some cases explaining the law may make a formal challenge unnecessary. Either the voter may learn that he or she should be voting at a different polling place or the challenger may learn that their basis for challenging is not sufficient or accurate. To the extent necessary, the moderator may ask the voter and the challenger to step aside, in order to allow those in line to proceed with checking in and voting. To proceed with a formal challenge, the challenger must complete the form and swear or affirm, under penalties of perjury, the grounds cited as the basis of the challenge.

If the ground for the challenge (including challenges to absentee voters) is age, citizenship, or domicile, the moderator must ask the supervisors of the checklist to rule whether or not the challenged voter is either qualified or not qualified.

The moderator rules on challenges based on all other grounds. If the voter is found to be not qualified (the challenge is well-grounded), the challenged person may vote only if he or she completes and swears to a

Challenged Voter Affidavit. If the voter is found to be qualified (the challenge is not well-grounded), the person must be allowed to vote without any further action. RSA 659:27-a.

The voter must swear to or affirm the Challenged Voter Affidavit before an election officer, notary public, justice of the peace or any person authorized by law to administer oaths. If the voter signs and properly swears to the affidavit, then the moderator must allow the individual to vote. RSA 659:30.

The ballot of a voter challenged in person is not marked. The ballot of a challenged absentee voter is marked with a sequential number. See discussion of challenges to absentee voters below.

The clerk must keep a record of all challenges with the name and address of voters completing the affidavits, the name of the person making the challenge, which is the person who signed the “Asserting the Challenge” form, the outcome of the challenge, and the reason for the challenge. RSA 657:26; RSA 659:27; RSA 659:27-a; RSA 659:32. For successfully challenged absentee ballots, the clerk shall enter this information in the *ElectioNet* Absentee Ballot module, by selecting the reasons from the appropriate dropdown. RSA 657:26.

The moderator has a duty to report violations of the election laws to the Attorney General’s Office. RSA 659:45. If the moderator determines that the challenge is well-grounded, that is a determination that the person who was seeking to vote violated the wrongful voting statute, therefore, the matter should be reported to the Attorney General’s Office. Violations discovered on election day should be reported immediately to (866) 868-3703. A written report on all violations will be required. Mail reports to: Office of the Attorney General, Elections Unit, 33 Capitol Street, Concord, NH 03301.

Challenges

PRESERVATION OF CHALLENGES

The moderator, at the end of the election, turns all Challenged Voter Affidavits over to the town or city clerk. The clerk preserves the information until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer. RSA 33-A:3-a.

CHALLENGED ABSENTEE BALLOTS

Absentee ballots are subject to challenge after the moderator publicly announces the absentee voter's name, but not after the moderator removes the ballot from the envelope.

The challenger (including election officials) must complete an "Asserting a Challenge" form when challenging an absentee voter's ballot.

If the ground for the challenge is age, citizenship, or domicile, the moderator must have the supervisors of the checklist rule whether or not the challenged voter is either qualified or not qualified.

The moderator rules on challenges based on all other grounds. The moderator shall write the word "Challenged," the name and address of the person making the challenge, and the reason the challenger listed on the "Asserting a Challenge" form on the affidavit envelope. RSA 659:27-a.

The moderator shall number each challenged envelope sequentially, i.e. challenge #1, challenge #2, etc.

If the moderator finds that the challenge is well-grounded and the voter is not qualified to vote, the moderator does not open the envelope, but shall preserve it with the other ballots cast at the election.

If the moderator finds that the challenge is not well-grounded and the voter is qualified to vote, the moderator shall open the envelope containing the ballot, so that the affidavit is not destroyed and proceed first to mark on the reverse side of the folded ballot the corresponding challenge number as

marked on the envelope. Then the moderator will process the ballot like all the other ballots that are cast and counted. RSA 659:51.

The moderator shall record next to the name of the absentee voter on the clerk's list of absentee voters the word "Challenged" the name of the person challenging as entered on the "Asserting the Challenge" form, the outcome of the challenge and the reason for the challenge. The clerk shall record the applicable information in *ElectioNet*. If the absentee ballot is not counted, the rejection reason must be entered. This allows the voter to use the Voter Lookup on the Secretary of State's web site to learn that their absentee ballot was not counted and why. RSA 657:26.

XVI. ELECTIONEERING

ELECTIONEERING; STATUTORY DEFINITION

Electioneering is now defined by statute as: “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.”

“Electioneering includes, but is not limited to:

I. Wearing clothing or paraphernalia that displays a candidate's name, likeness, or logo, a ballot measure's number, title, subject, or logo, a political party's name or logo, or any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure, provided that a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.

II. Distributing or posting a card, handbill, poster, placard, picture, pin, sticker, circular, or any other form of communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure.” RSA 652:16-b.

The law now explicitly permits a person wearing clothing with electioneering messages on it, which cannot reasonably be removed or covered, to wear the clothing inside the polling place while actively registering to vote or voting.

The prohibition on electioneering at the polling place has been amended:

“Electioneering shall be prohibited within the polling place building, provided that nothing in this section shall apply to the posting of sample ballots by election officials, pursuant to RSA 658:26, which have not been marked as voting for any

candidate or measure.” RSA 659:43, I.

The moderator’s duty to establish an electioneering free area outside the polling place has been amended to allow more than one no-electioneering corridor. This allows separate corridors for each entrance or entrance pathway.

“The moderator shall establish one or more no-electioneering corridors, no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to the parking lots that serve the polling place. The moderator shall establish the corridor in a manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor, and that permits a voter to step to the edge of the corridor and speak with those electioneering if he or she chooses.” RSA 659:43, II.

The moderator shall designate a preferred area of electioneering which should be within sight and conversational level sound of the primary entrance to the polling place.

“The moderator shall designate a preferred area for electioneering, which to the extent practical shall be within sight and conversation-level sound of the primary entrance to the polling place and shall abide by any regulations or ordinances approved by the municipality's governing body pursuant to RSA 31:41-c or RSA 47:17, XIV-a. RSA 659:43, III.”

Electioneering must be permitted in areas outside of polling place building and outside the no-electioneering corridor(s). However, the moderator is empowered to designate any part of the polling place location—such as a parking lot—a no-electioneering corridor to permit voters arriving or leaving the polling place to move to and from the polling place without interruption or interference from electioneering individuals.

“Electioneering may occur outside the no-electioneering corridor and outside the designated

preferred electioneering area.” RSA 659:43, IV.

Electioneering signs outside the polling place may not be affixed to the polling place building or grounds. An attended sign is permitted to rest on the ground while under the direct control of the person electioneering. Signs cannot be left unattended.

“Electioneering signs shall not be affixed to the polling place building or grounds. Electioneering signs shall not be left unattended.” RSA 659:34, V & VI.

Distribution or posting of electioneering communications in any form is prohibited inside the polling place and within the no-electioneering corridor(s). RSA 659:34, I.

“The distribution or posting of electioneering communications, including but not limited to posters, cards, handbills, placards, pictures, pins, stickers, circulars, or articles of clothing, is prohibited within any no-electioneering corridor established outside the polling place by the moderator.” RSA 659:43, VII.

Violation of these prohibitions on electioneering is a “violation.” This is an offense that can be brought, typically by law enforcement, in a court. A violation carries a maximum consequence of a fine not exceeding \$1000. RSA 651:2, IV (a). Prohibited electioneering can also result in a civil penalty not to exceed \$1,000, levied by a court based on an action brought by the Attorney General. RSA 659:43, VIII & IX.

MODERATOR RESPONSIBILITIES

The moderator is responsible for acting to deter illegal electioneering at the polling place. RSA 659:43; RSA 659:44.

The moderator establishes one or more no-electioneering zone(s), at a minimum ten-foot-wide, outside the polling place. The no-electioneering zone starts at the entrance to the polling place and goes as far into the driveway/sidewalk/parking area as the moderator determines necessary. Electioneering must be permitted in areas outside of polling place

building and outside the no-electioneering corridor(s). However, the moderator is empowered to designate any part of the polling place location—such as a parking lot—a no-electioneering corridor to permit voters arriving or leaving the polling place to move to and from the polling place without interruption or interference from electioneering individuals.

The no-electioneering zone(s) provides voters with a clear unobstructed path into and out of the polling place. The free exercise of First Amendment protected political speech outside the no-electioneering zone is not restricted. People electioneering there may encourage voters to step out of or to the edge of the no-electioneering zone to speak with the person electioneering.

People electioneering outside of the ten-foot-wide no-electioneering zone may also distribute campaign materials. Best practice is to have convenient trash containers inside the entrance to the polling place and outside the exit from the rail, to allow voters to dispose of these materials.

Some voters make use of campaign material that recommends how to vote when marking their ballot. Do not prohibit voters from bringing campaign materials with them to the voting booth, provided the voter does not display or distribute the material.

The statute makes an explicit but limited exception for clothing displaying an electioneering message. A voter who asserts they cannot remove or cover the clothing, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting. Once a voter wearing clothing displaying an electioneering message has voted, they must leave the polling place. If they wish to observe, they will need to come back after removing or covering all clothing displaying an electioneering communication.

CAMPAIGN MATERIAL INSIDE THE POLLING PLACE

In a 2018 case, the United States Supreme Court recognized that a state may regulate speech inside the polling place “as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view.” *Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018). In that decision the court struck down, as violating the First Amendment, Minnesota’s law, but advised “that if a State wishes to set its polling places apart as areas free of partisan discord, it must employ a more discernible approach than the one Minnesota” used. *Mansky* at 1891. States must be “guided by objective, workable standards.” *Mansky* at 1891. New Hampshire’s law is more narrowly defined than the law held unconstitutional in Minnesota. The prohibition in our State applies only to “a communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure **being voted.**” RSA 652:16-h (emphasis added). This means campaign material which is intended to influence how a voter marks his or her ballot at that election. Apply New Hampshire’s law using its objective and workable standards, discussed below.

New Hampshire’s prohibition on distributing, wearing or posting campaign materials in the polling place is a limited prohibition. To be subject to the prohibition, the poster, card, handbill, placard, picture, pin, sticker, circular, or article of clothing must:

- Explicitly advocate, for or against a candidate, political party, or measure;
- That is on the ballot at that polling place, that is “being voted.”

To be prohibited the communication must explicitly advocate. Prohibited electioneering communications include the following:

- “Vote for candidate name (or party)”
- “Vote against candidate name (or party);”
- “Vote yes on 1;”
- “Vote no on 2;”
- A picture of a candidate;
- A candidate’s name; or
- An uncommon logo associated with a candidate

This prohibition applies only to offices or questions “being voted,” those candidates, issues, or parties that appear on the ballot being voted on in the polling place. In this context, each of these examples can reasonably and objectively be construed as communication a reasonable person would believe explicitly advocates.

An element of the limitation on electioneering is that the campaign material be intended to influence the action of a voter in the polling place on that election day. In other words to explicitly advocate a vote for or against a candidate for an office or a question that is being voted on the ballot issued to voters at the polling place on that election day. Therefore, wearing a cap or button bearing the name of a candidate at a prior or future election, but who is not on the ballot that day, would be prohibited only if it objectively constitutes explicit advocacy for or against a candidate or question on the ballot that day.

Ambiguous material will most often not be prohibited by RSA 659:43.

Upon observing a voter enter the polling place to vote wearing clothing displaying explicit advocacy for or against a candidate or question on the ballot, where the nature of the material and the individual’s attire make doing so appropriate, it is reasonable to ask the voter to remove or cover up campaign material being worn which is intended to influence voters in the polling place. However, the law explicitly creates an

exception when the voter is unable to remove or cover the clothing, while that person is registering and voting.

The Attorney General's Office has recommended, but the law does not mandate, that local election officials keep spare shirts or inexpensive rain ponchos on hand to offer voters to cover unlawful attire.

However, should the voter assert that he or she is unable to remove or cover the electioneering communication, the voter must be allowed to vote. The proper response if the person is violating the prohibition is to refer the voter to the Attorney General's office for investigation.

However, once a person wearing prohibited electioneering clothing has voted it is appropriate to direct the voter to leave the polling place.

If necessary, summon the assistance of the Attorney General or law enforcement to have the person removed.

MISLEADING INFORMATION ON VOTING

The *Minnesota Voters Alliance* decision also indicates that a state “*may prohibit messages intended to mislead voters about voting requirements and procedures.*” *Mansky* at 1889, Footnote 4. New Hampshire's prohibition on voter intimidation and suppression, RSA 659:40, specifically prohibits “*knowingly attempting to prevent or deter another person from voting or registering to vote based on fraudulent, deceptive, misleading, or spurious grounds or information.*”

TOWN ORDINANCES

Towns may enact local electioneering bylaws that impose additional restrictions. RSA 31:41-c. Such bylaws must be posted at the polling place at least 72 hours in advance of any town election.

ELECTIONEERING FREE PATHWAY

The moderator also is made responsible for areas leading from the building entrance door to the room where voting occurs and that room itself.

The New Hampshire Constitution, Part 2,

Article 32, RSA 659:9, and RSA 659:43 make the moderator responsible for ensuring that voting is conducted in accordance with the law and grants the moderator substantial authority and discretion for that purpose.

SOCIAL AND CIVIC ACTIVITIES

The Attorney General's Office reports a common complaint is that activities, other than voting, occur within the building where voting is taking place. Allegations are that the activity constitutes illegal electioneering. It is strongly recommended that voters have a path starting in the parking lot and leading to and from the railed-in voting area that they can pass through without having to go around or avoid other activities. This path should be free from both electioneering activities and civic or social activities.

There is a longstanding practice in New Hampshire of allowing civic and social activities to occur within the building and room where election officials conduct voting. Many moderators allow bake sales, meals for election workers, public displays by 4-H or scouts, and/or public information displays on issues not before the voters at the election, in the room where voting occurs.

Townspople, town officials, the media and others often congregate in the public area outside the rail to observe the voting process, discuss current events, and socialize.

Particularly during elections that occur during the cold season or on days with inclement weather, moderators often will allow even those people actively involved in electioneering outside the building to come into the room where voting is occurring to warm up in the public areas outside the rail. Moderators must require that signs and other electioneering displays be attended and left outside.

The law does not explicitly prohibit civic and social activities, but the moderator has a responsibility to ensure that these activities do not have the effect of electioneering or of discouraging voting.

Electioneering

The moderator shall not allow such activities in the path into and out of the railed voting area. A voter must be able to come to the polling place, cast his or her vote, and leave without having to avoid or turn away from those involved in these activities.

Ideally, all such activities would be located away from the primary path in and out of the voting area such that a voter has a choice of going to the bake sale, Girl Scout cookie table, or of joining the discussion around the coffee table, but also can exit the polling place without doing so.

Moderators should exercise caution when allowing any kind of activity that involves public education or displays of information on issues of public interest/concern. Particular caution must be exercised if a moderator allows petition or letter signing drives to occur in the room where voting occurs.

The best practice is to limit activities in the room where voting occurs to registering, voting, and observing the election.

Even where activities are not explicitly prohibited, often the participants are local residents who are politically active in the community and who are therefore associated with particular candidates or issues coming before the voters. The association between these individuals, particularly if they are candidates on the ballot, and the issues they are advocating for often will raise complaints of electioneering. While they are unlikely to constitute an actual violation of the law because they do not constitute explicit advocacy, the moderator's broad authority to govern the election permits limiting all activities in the room. Best practice is to allow such activities only in the zone outside the building where electioneering is permitted or in a room separate from the room used for voting or walking to and from the building entrance.

NOISE

Moderators must keep the noise level low in

the polling place. Voters must announce their names to the ballot clerks who staff the in and out tables, voters registering on election day must be able to communicate with the supervisors, and voters in the booths should not be distracted.

TOWN BUSINESS

It is commonplace for a voter, upon spotting a selectman or other town official working at the polling place, to want to discuss town business. Public officials who are not performing election officer duties should be encouraged to move to the public areas outside the rail. Public officials who are performing election officer duties have an obligation to avoid discussions that address the pros or cons of any candidate or question being voted at that election. Avoid the appearance of impropriety by promptly moving even the most innocent conversations away from the railed in voting area.

“ELECTIONEERING BY PUBLIC EMPLOYEES.

No public employee, as defined in RSA 273-A:1, IX, shall electioneer while in the performance of his or her official duties. No public employee shall use government property or equipment, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering.

For the purposes of this section, "electioneer" means to act in any way specifically designed to influence the vote of a voter on any question or office.

Any person who violates this section shall be guilty of a misdemeanor.”

RSA 659:44-a.

RSA 273-A:1, XI defines public employee as “any person employed by a public employer except: (a) Persons elected by popular vote; (b) Persons appointed to office by the chief executive or legislative body of the public employer; (c) Persons whose duties imply a confidential relationship to the public employer; or (d) Persons in a probationary or temporary status or employed seasonably, irregularly, or on call. . . .”

RSA 273-A:1, X defines a public employer to include the State and any political subdivision thereof.

Local election officials who are responsible for the use of government property and who are subject to this prohibition because they do not fall within the listed exceptions or who have employees who are subject to this prohibition should educate their staff regarding this statute. It may be appropriate to include a reference to this statute in employee manuals or handbooks.

XVII. NEGLIGENCE, WRONGFUL VOTING AND FRAUD

WRONGFUL VOTING

RSA 659:34 sets forth the consequences of fraud or lying on the voter registration form or on affidavits used to become registered to vote or to vote. The registration and affidavit forms contain a short restatement of the penalties for wrongful voting. This statute authorizes the Attorney General to issue civil penalties under certain circumstances where there is evidence of voter fraud. A person convicted of criminal voting fraud can be fined up to \$2,000 and be sent to jail for up to one year by a court. The Attorney General can impose a civil penalty up to \$5,000 on anyone who commits voter fraud.

SB3 (2017) amended the statute on wrongful voting. The court has held SB3 unconstitutional and enjoined enforcement. This is the version of RSA 659:34, in effect before SB3. It is the current law:

659:34 Wrongful Voting: Penalties for Voter Fraud. I. A person is subject to a civil penalty not to exceed \$5,000 if such person:

- (a) When registering to vote; when obtaining an official ballot; when casting a vote by official ballot; or when applying for a photo identification card for voting purposes, purposely or knowingly makes a false material statement regarding his or her qualifications as a voter to an election officer or submits a voter registration form, an election day registration affidavit, a qualified voter affidavit, a domicile affidavit, a challenged voter affidavit, an affidavit of religious exemption, an identification card voucher, or an absentee registration affidavit containing false material information regarding his or her qualifications as a voter;*
- (b) Votes more than once for any office or measure;*
- (c) Applies for a ballot in a name other than*

his or her own;

- (d) Applies for a ballot in his or her own name after he or she has voted once;*
- (e) Votes for any office or measure at an election if such person is not qualified to vote as provided in RSA 654; or*
- (f) Gives a false name or answer if under examination as to his or her qualifications as a voter before the supervisors of the checklist or moderator; or*
- (g) Presents falsified proof of identity at any election.*

II. A person is guilty of a class B felony if, at any election, such person purposely or knowingly commits an act specified in subparagraph I(b) or I(e). A person is guilty of a class A misdemeanor if, at any election, such person purposely or knowingly commits any of the other acts listed in paragraph I, and, if the act involved the use of false proof of identity or voting using the name of another person, the person shall be sentenced to a mandatory sentence in the county correctional facility of not less than 30 days for a first offense under this section, 90 days for a second offense under this section, and 180 days for a third or subsequent offense under this section.

III. The attorney general is authorized to impose a civil penalty under paragraph I

- (a) The attorney general may impose a civil penalty by providing written notice to the person:*
 - (1) Setting forth the date, facts, and nature of each act or omission which makes the person liable to pay a civil penalty;*
 - (2) Specifically identifying the particular provision or provisions of the law involved in each violation; and*
 - (3) Advising the person of each penalty that the attorney general imposes and its amount.*
- (b) The written notice shall be served in hand or*

sent by registered or certified mail to the last known address of such person. The person shall have 30 days to pay any civil penalty assessed under this section to the secretary of state for deposit into the general fund.

IV. The decision of the attorney general to impose a civil penalty may be appealed to superior court. An appeal must be filed within 30 days of the date on which the person received it.

V. The attorney general is authorized to institute a civil action to collect a penalty imposed pursuant to this section. The attorney general shall have the exclusive power to compromise, mitigate, or remit such civil penalties.

VOTING IN MORE THAN ONE STATE – SAME ELECTION

RSA 659:34-a establishes the offense of voting in more than one state:

“A person is guilty of a class B felony if, at any election, such person knowingly checks in at the checklist and casts a New Hampshire ballot on which one or more federal or statewide offices or statewide questions are listed if the person also casts a ballot in the same election year in any other election held in any other state or territory of the United States where one or more federal or statewide offices or statewide questions are listed. For federal or statewide offices and statewide questions, neither the candidates nor the questions need be the same in both jurisdictions for a violation to occur. . .” RSA 659:34-a.

OTHER MISCONDUCT

RSA 659:40 prohibits the bribing or intimidation of another person in an effort to prevent that person from registering to vote or voting, or to compel him or her to vote in a particular way. A person convicted of bribing, intimidation, or suppression of the vote of another person shall be guilty of a class B felony.

New Hampshire law prevents interfering with communications equipment, in essence making it a misdemeanor to block telephone lines or internet sites. The law also prohibits certain work time and workplace electioneering activities by certain public

employees.

RSA 659:40-a - Interference With Communications: *“Any person who, on the day of any election, knowingly blocks, or solicits another person to block, the access of any candidate or committee to the candidate's or the committee's communications equipment or services with the intent of interfering with campaign activity shall be guilty of a class A misdemeanor.”*

A person shall be guilty of a Class B felony if he or she makes telephone calls with no legitimate communicative purpose or without disclosing his or her identity and with a purpose to annoy, abuse, threaten, or alarm another to a telephone number that they know is being used at the time of the calls to facilitate the transportation of voters to polling places or otherwise to support voting or registering to vote. RSA 644:4.

RSA 666:7-a makes it a misdemeanor to place a telephone call during which the person placing the phone call falsely represents himself or herself as a candidate for office.

CRIMINAL CONSEQUENCES FOR ELECTION OFFICIAL MISCONDUCT

Election officials who knowingly engage in any of the following misconduct may be convicted of a misdemeanor:

- Receiving and counting any illegal vote;
- Omitting to receive or count a legal vote;
- Illegally removing or adding votes to vote totals;
- Otherwise knowingly fail to perform a duty imposed by the election laws;
- Knowingly perform such duty in a way as to hinder the objects thereof; or
- Disclose private information from *ElectioNet*, the central voter registration system.

RSA 666:2; RSA 666:3.

OFFICIAL MISCONDUCT OF ELECTION OFFICERS

A new law establishing additional protection for election officials by making intimidation of election officials a class B felony takes effect on January 1, 2023. Further guidance will be provided when this law takes effect.

The same bill, SB 405, amends RSA 666:3. HB 1567 also amends RSA 666:3 with similar effect.

Existing law, RSA 666:3, I, makes it a misdemeanor for a public officer upon whom a duty related to elections is imposed to knowingly fail to perform such duty or knowingly perform it in such a way to hinder the objects thereof.

HB 1567 adds language to RSA 666:3 which highlights that an election official may lose their right to vote as a potential consequence if they are convicted of a crime in a court of law that constitutes a “willful violation of the election laws of this state or of the United States” as provided in the New Hampshire Constitution, Part 1, Article 11. This consequence has been the law in New Hampshire since it was added to our Constitution in 1912. This change to statute highlights the applicability of the consequence to an election official if convicted in court of a willful violation of the election law.

“No person shall have the right to vote under the constitution of this state who has been convicted of treason, bribery or any willful violation of the election laws of this state or of the United States; but the supreme court may, on notice to the attorney general, restore the privilege to vote to any person who may have forfeited it by conviction of such offenses.” New Hampshire Constitution, Part 1, Article 11.

The amendments in both bills also impose a civil penalty on the county, city, town, school district, village district, or other political subdivision where the act occurs of not less than \$250 nor more than \$1000 for each act where a public officer with election related duties negligently fails to perform a duty or

negligently performs the duty in such a way as to hinder the objects thereof. RSA 666:3. The Attorney General enforces this provision, subject to appeal to the superior court.

Other consequences are set forth in particular statutes. Misconduct by election officials in some cases is a felony.

Any person guilty of an offense against any provision of the laws relating to elections for which no penalty is specified shall be guilty of a violation. RSA 666:1. A violation is punishable by a fine of up to \$1,000. RSA 652:1.

If any moderator intentionally neglects to cause an accurate count to be made of the votes cast as required by law, which no other penalty is provided, he or she shall be guilty of a violation. If any town or ward clerk shall intentionally neglect to make any return of votes required by law, for which no other penalty is provided, he or she shall be guilty of a violation.

If a return of votes is not timely submitted or is submitted with significant defects, if a recount discloses that the election night vote count was significantly inaccurate, or if other significant deficiencies in the conduct of an election are documented, the Secretary of State shall report this to the Attorney General, and an election monitor shall be appointed. RSA 659:77.

ADMINISTRATIVE COMPLAINT PROCEDURES

The Attorney General’s Office is responsible for enforcing the election laws. RSA 7:6-c; RSA 664:18; RSA 666:8. The Help America Vote Act (HAVA) requires formal administrative complaint procedures.

File a HAVA administrative complaint with the Attorney General. The Attorney General’s Office is the authority for the resolution of complaints of federal voting law violations. The Attorney General may adopt administrative rules under RSA 541-A to implement the complaint resolution

procedures. The ballot law commission is hereby designated as the body providing alternative dispute resolution as required by HAVA Section 402(a)(2)(1). RSA 666:14.

Election officials and voters are welcome to contact the Attorney General's Office by telephone or e-mail. On or immediately before election day, concerns will be addressed promptly on the basis of these informal communications. In most cases a person wishing to make a formal complaint must file a sworn written complaint. A complaint form is available from the Attorney General and can be downloaded from the Attorney General's web site at:

<https://www.doj.nh.gov/election-law/file-complaint.htm> (Last Visited 8/4/2022).

XVIII. CONTINUITY OF OPERATIONS PLAN

MODEL CONTINUITY OF OPERATORS PLAN – ELECTIONS

This model plan provides municipalities with a recommended structure and elements of a Continuity of Operations Plan (“COOP”) for conducting elections. A municipality may adopt this plan by inserting the required local information. Municipalities may make additions or revisions to this plan as needed to meet local needs. Please submit a copy of the completed plan to the Secretary of State.

This model is in the context of a town. A city plan may substitute the city clerk for the moderator in those areas where the city clerk is responsible for or performs the task discussed.

Continuity of Operations Plan for Elections
For the Town/Ward of:

[Insert town/ city & ward Name]

ALTERNATIVE POLLING PLACE

The governing body, working with the Moderator and Clerk, shall identify at least one alternative polling location that can be utilized in the event that the municipal polling place(s) becomes unavailable on election day. Once established, prior to each election the governing body or designee shall contact the owner or manager of each alternative facility and ensure that the location will be available if needed on election day.

The alternative polling place must be located within the town or city ward.

If the alternative polling place is not equipped with the tables, chairs, and other equipment necessary for conducting an election, the governing body or designee shall ensure the availability of the necessary equipment. The plan should address the contingency that the voting booths, voting screens, tables, chairs, and other equipment that are usually used at the polling place will be unavailable. A plan for relocation in circumstances where the regular polling place and equipment has been destroyed or is otherwise unavailable may rely on a supply of cardboard boxes for use as voting screens in place of voting booths and standard voting screens. At polling places that use an optical scan ballot counting device(s), the plan may rely on using a ballot box during the voting period. The plan should provide for hand counting all ballots. The plan may also have an extra optical scan ballot counting device available, in the municipality or through the vendor, as a replacement machine to count ballots using a tested copy of the program card.

Polling Place:
Address:

Evacuation assembly point:

Alternative Polling Place:
Address:
On-site Phone:

Evacuation Assembly point:

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24-hour Contact information for owner/manager of the Alternative Polling Place:

Name:

Phone Number Office:

Home:

Cell:

Address:

E-mail:

Alternative contact for owner/manager of the Alternative Polling Place:

Name:

Phone Number Office:

Home:

Cell:

Address:

E-mail:

STAFFING POLLING PLACES

The governing body, working with the Moderator and Clerk, shall identify a replacement pool of workers who can replace election officials or Inspectors of Election (Ballot Clerks) who are unable to work on election day or to alleviate overburdened polling locations. The availability of these replacement workers shall be confirmed for each election within 4 days prior to election day. If a communicable viral threat exists, consider the existence of relevant underlying medical conditions and the age of the replacement workers into the recruitment of replacement workers. Provide replacement workers with the Election Procedure Manual and coach them to use it to train themselves for their assigned role.

The Moderator and the Clerk shall ensure that prior to election day a deputy/assistant/pro tem is appointed for each of their offices, is trained, and takes the oath of office. Ensure each will be available should the Moderator or Clerk be unavailable for or become unavailable during election day.

FIRE SAFETY COMPLIANCE

The governing body, with the assistance of the fire department, shall ensure the polling place is in compliance with state fire safety laws and local fire safety ordinances, including fire extinguishers, sprinklers, and fire alarms.

CONTACT INFORMATION

The Moderator, working with the Clerk shall establish and maintain a list of contact information for each polling place. Update the list within one week prior to each election and no later than the Friday before the election. Provide a copy to the Moderator, any assistant/deputy moderators, the clerk, any deputy clerks, the Supervisors of the Checklist, and the governing body. Bring a copy of the list to the polling place. The list shall include:

- (1) Contact information for all election officials, inspectors of election, and individuals identified as replacement workers.
- (2) Emergency and non-emergency contact numbers for local police, fire, and EMS, the municipal emergency management director, the electric provider for the polling place, the highway department/road agent, the Attorney General's Office, and the Secretary of State's Office; and

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- (3) Emergency resources, such as a source for a power generator or temporary lighting, unless such resources will be provided by the fire department.

24 hour contact numbers for the owner/manager/maintenance staff of the polling place and the alternative polling place.

Establish a single primary communications mechanism to enable communication between the polling place and the Attorney General, Secretary of State, Police, Fire, and EMS.

Establish a sure communications mechanism and point of contact to enable the State (Attorney General or Secretary of State's office) to reach the polling place, and the reverse. This should be a landline in most polling places. A cell phone, if phone service is good and the individual with the cell phone will be at the polling place at all times, might be adequate.

POLICE, FIRE, EMS

A copy of the updated COOP plan, including the Contact Information list shall be provided to the police department, fire department, and governing body no later than 5:00 PM on the Friday before the election.

PRE-ELECTION REVIEW

The Moderator, Clerk, and such other municipal officials designated by the Moderator shall review the updated COOP plan prior to the election and ensure that copies of the plan are available at the polling place.

SPARE BALLOTS

The Clerk shall withhold and keep at the clerk's office or some other secure location away from the polling place at least one official ballot for each unique ballot to be voted at the election. The secured ballot(s) shall be used to create new ballots by photocopying in the event that the ballots to be used at the polling place are destroyed or otherwise become unavailable. The Clerk shall arrange in advance to have access to a photocopier, appropriate paper, and any other necessary supplies. The clerk or designee shall sign or initial each ballot produced by photocopy in an ink color other than black to authenticate the ballot.

EMERGENCY EQUIPMENT

The governing body or designee shall supply each polling place with, a generator and fuel, and emergency provisions, including but not limited to, two flashlights, a first aid kit, a battery operated radio, and extra batteries. This requirement may be satisfied by preexisting equipment in place in the building used as a polling place, provided the equipment is repositioned to be immediately available to election officials in the polling place on election day. For each polling place with cell phone service, the Moderator, working with the Clerk, shall ensure that some election official is present with a working cell phone at all times when the polling place is in use on election day. For polling places that do not have cell phone service, the Moderator, shall ensure that some means of requesting emergency assistance is readily available to election officials in the area of the building where the election will be conducted. Access to a land line telephone or emergency services radio will satisfy this requirement.

Pre-Election review of the Polling Place(s)

- (1) Not later than one day prior to election day, the Moderator, or designee, shall visit the polling place to ensure:
 - a. The location is accessible to persons with disabilities;

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- b. That facility lighting and equipment is in proper working order;
- c. An appropriate person will be available to open the polling place and assist election officials as needed to open the polling place to voting; and
- d. All facility-specific backup equipment such as a generator or temporary lighting is accessible and functioning.

Moderator COOP Plan Duties Prior To Opening For Voting

Prior to opening the polling place to voting on election day the Moderator shall:

(1) Establish a central point where everyone in the polling place should gather and report to if an evacuation is necessary. Inform election officials and poll workers of the location of the gathering point. The gathering point should be a safe distance from the polling place and if possible, appropriate for the weather on election day.

(2) Review the COOP plan.

(3) Designate another election official to oversee execution of emergency procedures in the event the moderator is unavailable or incapacitated.

(4) Assign responsibility to specific election officials for securing ballot boxes, ballots not yet issued to voters, and the marked checklist(s) in the event of an emergency. The ballot counting machine should be secured if this can be done safely, but securing the ballot counting device is a lower priority than the ballots and checklist. Instruct the assigned officials to secure these voting materials only if time and conditions permit doing so safely.

- a. To the extent practical two officials who are registered with different political parties shall be assigned each task.
- b. When having two officials from opposite parties is impractical, as soon as the official is in a safe area, instruct the assigned official to recruit a second election official or voter, who is a registered with a different political party. The recruit should assist with and witness maintaining the security of the voting materials until the conduct of the election is restored or the materials are placed in an approved secured location.
- c. In the event of a medical emergency or other event that does not require evacuation, instruct the assigned officials to focus on the security of the ballots, ballot boxes, and voting while the Moderator focuses on managing the emergency.

(5) Assign accountability to a poll worker who shall, upon notification of an emergency, note which voters have been checked through but have not yet voted. The moderator shall instruct the poll worker to complete this task in the event of an emergency, only if time and conditions permit.

(6) Point out to election officials and poll workers the location of fire extinguishers, fire alarms, emergency exits, Automated External Defibrillator (“AED”), the place of shelter and the predetermined central gathering point outside of the polling location.

(7) Ensure that all emergency exits are free of obstructions.

(8) Ensure the Clerk has reserved at least one of each unique ballot for use in the event that there are ballot shortages and additional copies are needed.

(9) Identify two fully charged cell phones for use in case of an emergency. Bring a charger

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and connection cord to charge critical phones during election day.

(10) Check the facility for any potential hazards, including but not limited to water on the floors, slippery sidewalks/parking area, and accumulated trash. Alert the facility management staff responsible for addressing any such hazards.

EVACUATION PROCEDURE

In the event of an evacuation of the polling place, to the extent doing so is safe, the Moderator shall:

- (1) Alert all individuals present of the emergency and direct them to the predetermined central gathering point.
- (2) To the extent practical, get a headcount and use this headcount to make certain everyone present evacuates from the polling place to the central gathering point.
- (3) Identify any individuals with disabilities and ensure they receive assistance, if needed, to evacuate the polling place.
- (4) To the extent that it can be done safely, collect the ballots which were issued to voters but not yet put into the ballot box/optical scanner. If voting resumes, these ballots should be marked spoiled and the voter should be issued an unmarked replacement ballot.
- (5) Ensure that the previously assigned election officials secure voting equipment and materials, provided this can be done safely.
- (6) If the emergency has been resolved, consult with emergency personnel to determine if the polling place can be re-entered and voting resumed. Notify the Attorney General and Secretary of State of the plan for resuming voting.
- (7) Coordinate an orderly restoration of the polling place. Election officials should move to their positions first. Once election officials are in place, voters who were voting and had not cast their ballot yet when the emergency began are allowed to re-enter the polling place. Voters who had not yet checked in or who arrived after the evacuation are then permitted to enter and check in.
- (8) If voting will resume at the alternative polling place, notify election officials, poll workers, and all others present that voting at the alternative polling place will begin as soon as the facility is equipped and staffed. All election officials and voters should report to the alternative polling place.

SMOKE, FIRE, GAS LEAK, OR ACTIVATION OF THE FIRE ALARM

In the event of smoke, fire, fire alarm, or other activated alarm, the Moderator shall:

- (1) Activate the fire alarm if not already activated.
- (2) Alert everyone present to evacuate to the predetermine central gathering point.
- (3) Once the alarm is determined to be false or the fire extinguished, consult with emergency personnel to determine if the polling place is safe to resume voting.
- (4) Restore and re-staff the polling place for voting, begin moving voting to the alternative polling place, or begin the postponement of voting.

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LOSS OF POWER AT THE POLLING PLACE

In the event that the polling place loses electric power, the Moderator shall:

- (1) Determine if emergency lighting and ambient light is sufficient to allow those present to complete registration and voting.
- (2) Alert everyone present to the situation.
- (3) Contact the owner/manager of the facility and the power supply utility to determine the source of the outage, what action needs to be taken to resume power, and the estimated time when power will be restored.
- (4) If restoration will be delayed, assess the feasibility of utilizing generator power or moving the voting process to an area where ambient light and flashlights would allow voting to continue.
- (5) If an optical scan ballot counting device is used at the polling place and voting can be continued without power, put a ballot box into use. After power is restored ballots cast into the ballot box should be inserted into the optical scanner to be counted. Publicly announce what you are doing and why in order to avoid confusion or actions being misconstrued.

MEDICAL EMERGENCY

In the event of a medical emergency at the polling place, the Moderator or designee shall:

- (1) Ensure emergency services are present or are called to the site.
- (2) Assess whether voting operations can continue or if necessary for public safety suspend voting.
- (3) If emergency services are not present, determine if any other qualified medically trained individual is present to assist until emergency services arrives.
- (4) Have a pre-established plan for the Moderator or a designated deputy/assistant to focus on the security of the ballots, ballot box, checklists, and voting process while the other focuses on managing the emergency.

DISASTER

In the event of any other disaster, including but not limited to, chemical emergencies, dam failures, earthquakes, exposure to hazardous materials, floods, hurricanes, or tornados suspend or postpone voting as necessary to comply with directives issued by local or state emergency officials.

SECURITY THREAT

In the event of any security threat at the polling place or sufficiently close to the polling place to pose a serious safety concern, including but not limited to, the discovery of a suspicious object, a bomb threat, an explosion, a biological threat, a chemical threat, an active shooter, or a nuclear blast, the Moderator shall suspend or postpone voting as necessary to comply with directives issued by local or state emergency officials. If and when the nature of the threat makes doing so appropriate, evacuate all present at the polling place to the predetermined assembly site if it is a safer location.

REPORT POLLING PLACE EMERGENCIES

In the event any emergency occurs at the polling place, as soon as is safe and practical, notify the Attorney General's Office and the Secretary of State of the emergency, what additional resources

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are needed, and the plan for restoring, relocating, or postponing voting.

UNAVAILABLE POLLING PLACE

In the event a polling place becomes unavailable:

- (1) The governing body and Moderator shall initiate relocating to the alternative polling place established in the COOP.
- (2) Contact the alternative location owner/manager to ensure its availability and arrange for relocating necessary equipment, voting materials, etc.
- (3) If the relocation occurs before election officials arrive at the polling place, notify all election officials and poll workers to report to the alternative location.
- (4) Place signs at or as close as is safe to the polling place listed in the warrant and public notices of the election directing voters to the alternative polling place.
- (5) The governing body shall arrange for town/city staff to be present at or as close as is safe to the polling place listed in the warrant and public notices of the election, to greet voters arriving there and redirect them to the alternative polling place.
- (6) Notice that the polling place is relocated shall be placed on the town/city web site as soon as possible.
- (7) Send notice of the relocation of the polling place to all media (TV, Radio, News web sites, etc.) that serve the town/city. The governing body, with assistance from the Clerk shall establish and maintain an e-mail and phone distribution list for the media that serve the town or city, which shall be inserted in or attached to the COOP. The Secretary of State, in consultation with the Attorney General and the Department of Homeland Security and Emergency Management shall establish a statewide list of media. State officials will update the list prior to September, November and March regular elections. The list will be available to municipalities through *ElectioNet*.

Media Outlet Name

Phone

E-mail

EXCESSIVE WAIT TIMES/SHORTAGE OF POLL WORKERS

A registered voter arriving at the polls generally should not have to wait more than 15 minutes to receive a ballot and have access to a voting booth or voting screen. A person who arrives at the polling place who is not registered to vote generally should not have to wait more than 30 minutes to start the voter registration process. In the event that higher than expected voter turnout or other circumstances result in excessive wait times which appear likely to continue:

- (1) The Moderator shall request individuals in the replacement pool of backup workers to report to the polling place and assist. The Moderator may also recruit responsible voters in the town/ward from those present at the polling place. Pair untrained workers with experienced workers, provide a copy of the pages of the Election Procedure Manual that describes their duties, and to the extent practical provide training.
 - a. If the excessive wait time is caused by insufficient voting booths or screens, the Moderator, to the extent practical, shall use tables and cardboard boxes or similar materials to create voting screens for additional voting positions within the rail.
 - b. If excessive wait time is caused by a backup at a particular checklist/ballot pick up point(s), the Moderator shall assess whether to shift one or more sections of

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the checklist bearing names starting with specific letters of the alphabet to the next checklist/ballot pick up point.

- (2) If the excessive wait time is for people seeking to register to vote, the Supervisors of the Checklist shall request individuals in the replacement pool of backup workers to report to the polling place and assist. The Supervisors may also recruit responsible voters in the town/ward from those present at the polling place to assist applicants for registration in completing the Voter Registration Form, however, the Supervisors or previously trained assistants must review the completed form and determine whether to approve the application.
 - a. The Supervisors of the Checklist in towns/wards which historically have had excessive lines shall equip the polling place with clipboards and/or notify the governing body of the need for additional tables to ensure that applicants waiting in line have a suitable writing surface to use to pre-complete the Voter Registration Form while waiting.
 - b. The Moderator shall ensure that signs and/or a greeter is in use to direct people arriving at the polling place to the correct line based on whether the person is already registered and has photo ID, registered but needs to go to the No Photo ID table, or needs to be registered.

PART 4 – FORMS AND APPENDICES

XIX. CYBER SECURITY TERMS

1. Adversary (Attacker)
 - A party who acts with malicious intent to compromise a system.
2. Advanced Persistent Threat
 - An adversary that possesses sophisticated levels of expertise and resources to mount multiple attacks.
3. Air Gap
 - Two computer systems that are not connected physically.
4. Authentication
 - Verifying the identity of a user, process or device. The New Hampshire Statewide Voter Registration System requires two factor authentication. The first factor requires the user to enter a username and password. The second factor requires the user to enter a one-time numeric code received by e-mail or text from the SVRS system.
5. Attack Surface
 - The sum of the different points in a software/hardware environment where an unauthorized user can try to enter and change or extract data.
6. Attack Vectors
 - The route by which an attack is carried out. Attack vectors together make up an attack surface. They include user input fields, interfaces, and the Internet. A pdf email attachment or ports open to the Internet can be attack vectors.
7. Breach
 - A compromise of security.
8. Blacklisting
 - Causing a list of entities to be blocked or denied privileges or access.
9. Backups
 - A copy of files and programs made to facilitate recovery if necessary.
10. Disinformation
 - False information that is deliberately created to mislead, harm, or manipulate a person, social group, organization, or country.
11. Distributed Denial of Service (DDoS) Attack
 - The prevention of authorized access to computer resources. A DDoS

attack attempts to exhaust an application's resources. The perpetrators behind these attacks flood a site with errant traffic, resulting in poor website functionality or knocking it offline altogether.

12. Firewall

- The process integrated with your computer system that blocks undesirable applications and prevents remote users from accessing your computer.

13. Incident Handling

- The reporting of and responses to attacks on your computer.

14. Malinformation

- A deliberate publication of private information for personal or private interest, as well as the deliberate manipulation of genuine content. Note: This is not false information but instead, real information based on reality, but is used and disseminated to harm others.

15. Malware

- A program that is inserted to covertly compromise the victim's operating system or software.

16. Misinformation

- Information that is false, but not created or shared with the intention of causing harm.

17. Multifactor Authentication

- Authentication using two or more factors to achieve authentication using factors you know such as: password, pin number, or something you are sent via a text or email.

18. Resilience

- The ability to continue to operate under adverse conditions, e.g. relying on paper processes.

19. Whitelisting

- Causing a list of entities to be given access or privilege.

XX. GLOSSARY OF TERMS USED IN THIS MANUAL

Note: There is also an additional glossary of Cyber Security terms in the Appendix. Use the index to locate sections of the Election Procedure Manual that address these terms.

Absentee Ballot A ballot used when the voter will not be able to vote in-person at the polling place on election day.

Absentee Ballot Application The application form used to request an absentee ballot.

Absentee Ballot Return Form The form completed by a delivery agent when delivering an absentee ballot for another voter.

Absentee Voting Affidavit A form printed on the envelope used to return a marked absentee ballot where the voter asserts that he or she is entitled to vote absentee due to:

- disability;
- observance of a religious commitment;
 - absence from the town or ward, including employment obligations in or out of town that do not allow the person to vote in-person, employment includes child care or care for infirm adults whether compensated or not;
 - winter storm warning issued by the national weather service where the voter is concerned with safety traveling in the storm or needs to care for children or infirm adult(s);
being confined in a penal institution for a misdemeanor or while awaiting trial;
 - being a victim of domestic violence with an active protective order; or
being an emergency services worker called into service.

These voters sign the affidavit on the affidavit envelope, which no longer requires the voter to identify which listed circumstance that allows absentee voting applies.

Absentee Voting Receiving, marking, and returning a ballot on or before election day. Completed absentee ballots must be received by the town, city, or ward clerk no later than 5:00 p.m. on the day of the election. Most absentee voting is done by mail. Absentee voting may also be done by visiting the clerk's office.

Absentee Write-In Ballot Ballots intended for use by voters who are currently living outside the United States and are unlikely to have sufficient time to receive, mark, and return a regular absentee ballot.

Accessibility Requirements related to parking, the path of travel (to, from and within the polling place), ramps, entrances, doors, floor surfaces, and voting booths required in every polling place to make it easily accessible to all voters. Required by the New Hampshire Constitution, state statute, and the federal Americans With Disabilities Act.

Advertising, political Communication that expressly advocates the success or defeat of a party, measure, or person at any election.

Affidavit A signed document in which a person swears an oath, in front of an election official, Notary Public, or Justice of the Peace, relative to the truth and accuracy of certain information.

Assistant Election Official A voter in the town or ward who is appointed as an “assistant” election officer. A moderator appoints an assistant moderator, a clerk appoints an assistant clerk, and the supervisors appoint assistant supervisors. The assistant must take the oath of office. RSA 658:7; RSA 658:7-a; RSA 658:8.

Ballot A paper on which a voter marks his or her vote.

Absentee Ballot A ballot used when the voter will not be able to vote in-person at the polling place on election day.

Official Ballot A pre-printed ballot containing the names of the candidates who have filed to run for an elected office and the text of any questions to be voted on.

Regular Ballot A pre-printed ballot used in a state election.

Sample Ballot A pre-printed ballot intended for posting to show voters the appearance of the official ballot on which he or she will vote. A sample ballot does not have the signature of the Secretary of State.

Unofficial Ballot Plain paper distributed to voters at a town or school district meeting, on which the voter writes the name of the candidate he or she wishes to vote for.

Ballot Box A box used at the polling place to collect marked ballots during the course of voting. The box is usually marked “Official Ballot Box.”

Ballot Clerk Ballot Clerks are Inspectors of Election or other election officials who check in voters and issue a ballot. While the terms “ballot clerk” and “inspector of elections” are sometime used interchangeably, an “inspector of elections” may be assigned other duties.

Ballot Counting Device An electronic device that counts ballots using optical scan technology. The AccuVote optical scanning device is approved by the Ballot Law Commission for use in NH.

Campaign Material That material which unambiguously communicates a purpose or goal of instructing a voter how to vote, such as a campaign button, sticker, poster, card, handbill, placard, picture, pin, circular, or article of clothing; campaign material need not be commercially printed nor be something that appears to have been produced in quantity.

Certification Of Checklist Before the polls open the supervisors of the checklist certify that the checklist(s) to be used on election day are an accurate list of the people who are registered to vote. After closing the polls at a state election, the moderator and town or ward clerk shall certify on the checklist that it is the checklist marked by the ballot clerks, under the supervision of the moderator, throughout election day and on which the names of those who registered on election day have been entered.

Challenge An assertion by a registered voter of the town or ward, an official Challenger appointed by a political party, or the Attorney General stating that a voter is not eligible to cast a ballot for a specific reason. An Asserting a Challenge Affidavit form must be sworn to under oath by the challenger.

Challenge Affidavit, Asserting a The form used by a registered voter of the town or ward, an official Challenger, or the Attorney General to assert that a voter is not eligible to cast a ballot.

Challenged Voter Affidavit A form used by a voter who fails to provide a photo ID to affirm that he or she is the person he or she claims to be. A Challenged Voter Affidavit is also used when an in-person voter has been successfully challenged, but continues to assert the right to vote. A successfully challenged voter who completes a Challenged Voter Affidavit must be allowed to vote.

Challenger A person holding a letter of appointment from one of the political parties with authority to challenge a voter's qualifications to vote. A challenger has the statutory right to be positioned where he or she can hear voters check in, and typically tracks get-out-the-vote efforts or monitors the conduct of an election for a political party; sometimes incorrectly referred to as a poll watcher.

Check-in Station The location a voter reports to at the polling place to obtain a ballot. A ballot clerk verifies the voter's ID and that he or she is on the checklist and, if so, marks the checklist to show the person was issued a ballot and then issues the voter a blank ballot.

Check-out Station In hand-count towns, the clerk or an assistant staffs a checklist located just before the ballot box. As a voter arrives to hand his or her ballot to the moderator for casting into the ballot box, the voter checks out with the clerk. The photo identification requirements for check-in do not apply to checkout, otherwise the process is the same as check-in. The voter states his or her name (name and party, if a primary) and is checked out. If the voter was registered as undeclared when they arrived at the polling place they should be given an opportunity to sign the list or complete the form to return to undeclared.

Checklist A document that contains the name of every qualified voter registered in a given town or ward. The name of those who register to vote at the polls on election day are hand written onto the checklist. Marks are made by the voter's name on the checklist to document that he or she voted.

Checklist, Attorney General A form used by representatives of the Attorney General to verify polling place compliance with state and federal laws. Also used by election officials as a checklist to ensure compliance.

Chief Election Officer The person in charge of the polling place, the Moderator in towns. Ward moderators are in charge of each ward polling place, but carry out their duties in conformance with citywide policies and practices established by the city clerk.

Citizenship, United States Being qualified as a citizen of the United States, which is a voting requirement. Individuals are qualified by birth in the United States, birth to a United States Citizen, and by naturalization.

Clerk A town officer elected for a one-year or three-year term, with diverse municipal duties, including election responsibilities such as the warning of meetings, conducting elections, and reporting the results declared by the moderator.

City Clerk is usually an appointed official, with diverse municipal duties, including conducting elections.

Ward Clerk Elected in a city ward, the ward clerk has the powers, performs the duties, and is subject to the responsibilities of the clerk for that ward.

Confidential Voter A voter who presents a valid domestic violence protective order pursuant to RSA 173-B:4, or is a participant in the Attorney General's address confidentiality program established by RSA 7:46 and requests confidential status. The names of confidential voters are not listed on the public checklist and are not announced at the polling place when the voter's absentee ballot is processed. Clerks automatically send confidential voters an absentee ballot.

Continuity Of Operations Plan (COOP) A document planning how to respond in various circumstances. Pre-planning ensures resilience: the ability to continue to run an election under adverse conditions, such as power outages, ballot-counting device failure, or cybersecurity attacks.

Counting Tallying the election results for each candidate and write-in for each office and the “yes” or “no” votes for questions on a ballot.

Cyber Security Efforts undertaken to ensure that electronic data and communications are kept as safe as possible from theft, alteration, or disruption.

Declaration of Candidacy A form completed by a person who wishes to run for office.

Disability A physical or mental condition that limits a person's movements, senses, or activities such that the voter is unable to vote in person. Disability includes any medical condition where medical advice is that the voter not go out in public. A person with a disability has a right to register to vote and vote absentee (by mail).

District, Additional Polling Place In towns or wards that have adopted an additional polling place, the district is the geographic area within the town or ward assigned to the additional polling place or to the central polling place. The term “precinct” is sometimes used to refer to a voting district, however the word is also sometimes used in the name of a Village District. A village district is a separate unit of government, generally formed for specific purposes such as providing water, fire protection, lighting, etc., and typically consisting of just a subsection of one or more towns.

District, Electoral The geographic boundaries for the town(s) and ward(s) that a specific office holder must be domiciled in, is elected from, and serves. Each State Representative seat is elected from a district. The Representative district may consist of one or more town(s) and/or ward(s). A State Senate District is made up of several towns and/or wards. An Executive Council District is made up of towns and wards whose population is approximately 1/5 of the state population. A United States Representative in Congress District is made up of towns and wards whose population is approximately 1/2 of the state population. Some counties elect County Commissioners by district.

Division Vote A division vote may be taken if the moderator is in doubt over the results of a voice vote. Voters in favor of a question raise their hands or stand and are counted by officials designated by the moderator. Then voters opposed to the question are counted in the same manner. The results are tallied and announced.

Domicile An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves. A voter can have only one domicile for voting purposes.

Domicile Affidavit A form used by a person seeking to register to vote, to assert his or her domicile address, when the applicant does not have proof of domicile with him or her when registering.

Duplicate Record When one voter is simultaneously registered to vote in more than one New Hampshire town or city. A voter who is registered in one town or ward has no duty to notify election officials when permanently moving to a different town or ward. A voter who moves must register to vote in his or her new town or ward and must report on the voter registration form where he or she was previously registered. Election officials are responsible for communicating

when such a transfer of voter registration occurs, to ensure the voter is removed from the checklist for the town or ward from which they have permanently moved. When registering a new voter, election officials are responsible for checking the Statewide Voter Registration System to determine whether the applicant already has a record of voter registration anywhere in the state.

Election Materials Ballots, forms and absentee voter materials for all state elections and state referenda, including constitutional amendments.

Election Officer Any moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar. RSA 652:14.

Election Official A term not defined by statute, but used in the election laws in a manner that suggests it is interchangeable with an Election Officer.

Electioneering Visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted. RSA 652:16-h.

ElectioNet The statewide voter registration system that contains the computerized records of all voters in the state as required by federal law. Local officials are responsible for the records of the voters in their town or ward. The Secretary of State is responsible for the operation and security of the statewide system.

Electronic Poll Books An electronic device used for voter registration and check-in. State law has established a process for approval of use of an electronic poll book in New Hampshire. No device has yet been approved for use in New Hampshire. With approval from the Secretary of State an electronic poll book may be used in parallel with the statutory paper process.

Exit Polling Private firms or news organizations collecting data from voters leaving the polling place. Typically restricted by the moderator to areas outside the room where voting occurs and to a manner that does not interfere with the customary path into and out of the polling place.

Extended Hours A situation whereby a court orders that the polls be kept open beyond the planned closing time. Ballot cast during extended hours must have “EH” written on them.

Federal Office Only Absentee Ballots (“FOO”) Used for absentee voting by United States citizens who last lived in New Hampshire, live outside the United States now, and either do not plan to return or for whom return to the United States is uncertain. A United States Citizen who has never lived in United States may vote as a “FOO” voter in the town or ward where his or her parent or legal guardian had a domicile immediately prior to departure from the United States. These voters vote only for federal offices: President & Vice President, US Senator, Representative in Congress.

Federal Office Only Voter A person living outside the United States who no longer maintains a domicile in New Hampshire and either does not plan to return or for whom return to the United States is uncertain, but who (or a parent or legal guardian of said voter) had his or her last domicile before leaving the United States in New Hampshire. FOO status is most often determined by the voter’s entries on the Federal Postcard Application.

Federal Postcard Application (“FPCA”) A form used to register and/or request an absentee ballot by a Uniformed and Overseas Citizen Absentee Voter (“UOCAVA”), including Federal Office Only Voters.

Federal Write-in Absentee Ballot (“FWAB”) Ballots intended for use by voters who are currently living outside the United States and are unlikely to have sufficient time to receive, mark, and return a regular absentee ballot. A UOCAVA voter must specifically request an FWAB or may download one from the federal voting assistance program website (fvap.gov).

General Election The statewide election held on the first Tuesday following the first Monday in November of even numbered years.

Greeter An election official appointed by the moderator positioned where voters arrive at the polling place who assists those arriving to find the correct starting place to register, vote, or establish identity.

Guardrail A barrier, rope, ribbon, or other similar divider to establish a boundary around the voting area, placed so that no person outside the rail can get closer than 6 feet of the voting booths and the ballot box or ballot counting device. No person other than the election officials or registered voters in the process of voting may be within the rails except by the authority of election officials.

Hand Count Manually determining election results (without the use of an electronic voting machine). Typically teams, of two or three election officers each, manually count the ballots cast at the election. In polling places that use a ballot counting device, ballots that cannot be counted by the device are hand counted, with the results added to the results from the device.

HAVA / Elections Division Help Desk The Secretary of State’s office division, funded by the federal Help America Vote Act, which manages the *ElectioNet* system and provides support and training for NH election officials. 1-800-540-5954, (603) 271-8241.

Home Of Record A military term used for voting purposes, referring to the town in which the person was domiciled when he or she entered the armed services.

Immaterial Defects Stray marks on the ballot, a tear in the ballot, a coffee stain, or any immaterial addition, omission or irregularity in the preparation or execution of any ballot or affidavit. Count the votes marked on a properly cast ballot, even if it has immaterial defects.

Incompatible Offices Elected offices that one person cannot file for or serve in at the same time.

Independent A term, sometimes improperly used interchangeably with Undeclared, to describe a voter not affiliated with a political party. The term Undeclared is preferred as it is used in New Hampshire law. Using “independent” is disfavored, in part because in the past there was a recognized political party with the name “Independent.”

Inspection of Ballots The town or city clerk must open all boxes of ballots received from the Secretary of State for a state election in the presence of at least one other voter as soon as possible after those boxes are received. The clerk must verify that all the ballots are the proper ones for that town or city, remove the number of ballots needed to test the electronic ballot counting device, and then reseal the boxes using the sealing label provided in the box.

Inspector Of Elections A person serving a two-year term who is appointed by a political party or selectmen to serve as a ballot clerk, greeter, or fulfill other election-related duties. While the terms “ballot clerk” and “inspector of elections” are sometime used interchangeably, the “inspectors of election” may be assigned other duties.

Interstate Cross-check The Interstate Voter Registration Crosscheck Program was previously used to help assess if an individual who permanently moved to a different state remains on the checklist or voted in the same election in more than one state. Interstate Cross-check is not currently operating.

Legal Vote Examining marks made on a ballot by a voter to determine his or her vote. The intent of the voter controls how a ballot is counted, even if the marks made do not comply with the ballot marking instructions.

Long Report Tape A paper document printed by an electronic ballot counting device documenting the votes counted by the device. The AccuVote device will print either a short report or a long report. The long report includes additional helpful information, is required by law, and at least two copies must be printed. One copy must be available from the clerk as a public record and one copy must be submitted to the Secretary of State with the return of votes. RSA 659:75. Best practice is to also print a copy for the Moderator and one to post with the hand counted ballots results.

Misconduct Any of an array of prohibited activities including bribery, intimidation, or suppression of the vote of another person; blocking telephone lines or internet sites; falsely representing oneself as a candidate for office; and election officer failure to perform a duty imposed by the election laws.

Moderator Elected for a two-year term, the moderator is the chief election officer in charge of the polls and overseeing voting.

Ward Moderator in a city is elected by ward voters and shall have the powers, perform the duties, and be subject to the responsibilities of those offices in towns, so far as it relates to the warning of meetings, conducting elections, counting and declaring votes, and all other matters relating to elections. Ward Moderators must follow citywide standard practices established by the city clerk.

Moderator's Worksheet A form required by law which is used to assist a moderator reconciling votes, voters, and ballots cast as part of a process to verify the accuracy of the apparent results after counting ballots. The Moderator's Worksheet is a public document which must be filed with the clerk within 48 hours of the election. The statute also refers to the form as a moderator's certificate. RSA 659:73, IV.

Names On Checklist Report A form that the moderator completes which contains information on the number of new voters who registered to vote at the election and the total number of voters on the checklist after the polls closed. For a primary election, the report includes the number of undeclared voters who declared membership in a party to vote in that party's primary and the number of those voters who returned to undeclared.

National Voter Registration Act Also known as the "motor voter law," New Hampshire is exempt from this federal law because New Hampshire has election day voter registration.

NHVRIN The NH Vital Records Information Network is a database that includes official reports of death. NHVRIN is used to match death records with voter records in *ElectioNet* to facilitate removing the names of deceased voters from checklists.

Nomination Paper A legal document signed by a voter, which supports placing a candidate's name on the general election ballot. A nomination paper is used by a candidate who is not running for nomination by the Democratic or Republican Parties.

Oath Of Office A requirement that each election official swear and affirm allegiance to the United States and the State of New Hampshire and commit to faithfully and impartially performing the duties incumbent upon the office.

Observer Anyone who wishes to watch voter registration, voter check-in, the casting of ballots, and the counting of ballots; observers have no special status in law and, like all members of the public, are entitled to silently observe the election from outside the guardrail as long as they are not disruptive.

Official Ballot A pre-printed ballot containing the names of the candidates who have filed and the text of any questions to be voted on. The official ballot for state elections has the endorsement (signature) of the Secretary of State on the ballot.

One4all The tablet-based Accessible Voting System provided by the Secretary of State which must be available for use by any voters who request it. The system assists voters with a disability with privately and independently marking at ballot.

Ordinance Bylaws enacted by a town or city.

Oval The area on a ballot beside a candidate's name, the write-in line, or beside an answer to a question that a voter fills in to record his or her vote. See Valid Voting Marks.

Overvote A circumstance when a voter votes for more names than there are persons to be elected for an office. For example, voting for three candidates in a State Representative District that has two Representatives. The instruction on the ballot for the office will say vote for not more than two; this ballot shall be regarded defective for that one office only and the vote(s) shall not be counted for that office. For a question with "yes" and "no" choices a ballot with both marked is also an overvote.

Ballot counting devices must return (reject) any ballot read to have one or more races/questions as an overvote to be hand counted after the polls close to voting. The device does not count any part of the ballot, it must be fully hand counted.

A stray mark through an otherwise blank oval or a clearly canceled mark may be read by the device as a vote, resulting in an overvote (no vote counted for that race). An election official hand counting that ballot must hand count every race and question on the ballot following the intent of the voter.

Party Affiliation A voter's choice to register as affiliated with (as a member of) a political party (Republican or Democratic) as opposed to registering as Undeclared or unaffiliated with any party. An undeclared voter may also join a party by choosing that party's ballot at a primary. That voter remains affiliated with, a member of, that party following the election, unless the voter submits a "Change Back to Undeclared" request after voting.

Party Committee Nominations Following the filing period for a primary election, in the event that no declaration has been filed on behalf of a candidate for any office, the appropriate party committee may make a nomination to fill the vacancy by notifying the Secretary of State on or before the Wednesday following the close of the filing period.

Pharming A cybersecurity attack in which attackers hijack a legitimate website's domain name and redirects you to a fraudulent site.

Phishing A malicious e-mail claiming to come from a recognized source that is designed to trick you into providing the details of your account or to make a payment.

Political Advertising Communication that expressly advocates the success or defeat of any party, measure, or person at any election. The phrase “or implicitly” in the definition provided by RSA 664:2, VI has been struck out by the courts as being unconstitutionally vague.

Poll Watcher An incorrect name for Challengers selected by political parties.

Polling Place A suitable site chosen by the selectmen to hold an election. The polling place must be well-known; well-lit and heated; furnished with the proper supplies and conveniences; and large enough to accommodate voters, election officials, and have a public area where people can watch the conduct of the election.

Posting Public display of designated election documents (including checklists, notice of sessions, warrants, and sample ballots) following procedures specified in statute.

Precinct A term sometimes used in place of “District.” In towns or wards that have adopted an additional polling place, a precinct is the geographic area within the town or ward assigned to the additional polling place or to the central polling place. The term “precinct” is sometimes used to refer to a voting district, however the word is also sometimes used in the name of a Village District. A village district is a separate unit of government, generally formed for specific purposes such as providing water, fire protection, lighting, etc., typically consisting of just a subsection of one or more towns.

Primary Election An election held to choose party nominees. The State Primary Election is held on the second Tuesday in September of even numbered years. The Presidential Primary Election is held every four years on a date determined by the Secretary of State as prescribed by state law.

Primary Petition A candidate seeking the nomination of a party may submit a designated number of these forms with voter signatures in lieu of paying a filing fee. Each primary petition may contain the name of only one candidate and bear the signature of only one voter.

Pro Tem Officer An election officer appointed to act on a temporary basis to fulfill the duties of an officer who is temporarily absent or to supplement staffing at a polling place.

Purity of Elections Statutes related to election integrity, copies of which must be posted at the polling place.

Qualified Voter Affidavit A form used by persons seeking to register to vote to assert his or her age, identity, or citizenship when the applicant does not have proof of age, identity, or citizenship in their possession.

REAL ID An endorsement on a NH driver’s license or non-driver ID that signifies the person has proven his or her identity to federal standards and that he or she is either a United States citizen or a non-citizen who is legally present in the United States.

Reconciliation A prudent practice to help validate preliminary election results by comparing votes, voters, and ballots cast using different measures.

Recount A process that conducts a repeat tally of votes cast for an office or question using a transparent and carefully controlled process, as prescribed by statute.

Registrars A term used in cities for their equivalent of Supervisors of the Checklist.

Registration A procedure for qualified citizens to submit an application, prove their qualifications, and have their name added to the checklist for a town or ward.

Regular Ballot A pre-printed ballot used in an election. The term is most often used to contrast the official ballot used by in-person voters on election day with an absentee ballot or a sample ballot.

Religious Exemption A form used by a voter who does not have photo ID, is completing a Challenged Voter Affidavit, and objects to having his or her photo taken because of religious beliefs.

Residence A person's principal or primary place of habitation or home. Election law uses the term domicile. The general laws, motor vehicle, and other law uses the term residence, defined in RSA 21:6. "[A] person with a New Hampshire "domicile" under RSA 654:1 is necessarily a "resident" under RSA 21:6" *Casey v. N.H. Secy. of State*, 173 N.H. 266, 272 (2020).

Resilience The capacity to recover quickly from difficulties, for example the ability to continue to run an election under adverse conditions, such as power outages, ballot-counting device failure, or cybersecurity issues. Resilience plans are documented in a Continuity of Operations Plan (COOP).

Return Of Votes Form The form on which the town or ward clerk submits the election results, as determined by the moderator, to the Secretary of State. The one4all tablet and for polling places that use a ballot counting device, a copy of the long results tape must be sent to the Secretary of State with the Return of Votes.

Right-To-Know Law RSA Chapter 91-A, the NH statute designating which state records are subject to public disclosure and requiring public bodies to meet in public, give notice of meetings, and maintain publicly available minutes. These statutes carry into effect Part 1, Article 8 of the New Hampshire Constitution, which provides in part that government "should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted."

Sample Ballot A pre-printed ballot with the word "Sample" printed on it, intended for posting to show voters the appearance of the regular ballot.

Seal, Ballot Storage Boxes An adhesive seal provided by the Secretary of State for sealing up the storage boxes containing the ballots used at an election. The seal requires a count of the number of cast, canceled, and uncast ballots in each box. It includes a check box to identify a box that contains absentee ballot applications, envelopes, as well as challenged and rejected absentee ballots. The moderator, selectmen, and clerk must sign the seal certifying its contents and the transfer of the box of sealed ballots to the clerk for storage. The Secretary of State provides boxes with a red ink "Ballots" label for securing ballots and boxes with a blue ink "Absentee Voting Materials" label for securing all absentee applications, envelopes, and other absentee voting materials.

Seal, Security A security device affixed to certain election devices and containers to control access. A broken seal reveals that the device or container may have been accessed. Seals used with ballot counting devices have unique serial numbers. Logs must be maintained which document proper access to the device or container.

Selectman A member of the governing body of a town, elected for a three-year term at the annual meeting. A selectman has a variety of duties related to elections.

Ward Selectmen, elected in each city ward, have the powers, perform the duties, and are subject to the election's responsibilities of those offices in towns.

Sort-and-Stack Method A method used to hand count votes where ballots are sorted and stacked based on the vote marked on the ballot for the office or question being counted.

Spear Phishing A malicious email that includes information about you obtained from public records or scammed from others that is designed to trick you into providing details of your *ElectioNet* or personal accounts or to make a payment that can be stolen.

Special Election An election held to fill a vacant position.

Spoiled Ballot A ballot on which a voter makes a mistake and requests a replacement; the spoiled ballot is marked “cancelled” by the moderator, set aside, and not counted. RSA 659:22.

Spoofing A malicious e-mail requesting data or payment, making it appear to be a legitimate e-mail from a recognized source, but using an e-mail address or web form that actually sends your data or payment to a criminal.

Standard Of Proof More likely than not. Regarding any particular applicant’s identity, age, citizenship or domicile qualifications, there is a presumption that the applicant who has signed the voter registration form affidavit is qualified to vote and authorizes the supervisors of the checklist to reject the application only if they conclude that it is more likely than not that the applicant is not qualified. In election law most voter registration and ballot counting decisions are made using this civil “more likely than not” standard. The criminal “proof beyond a reasonable doubt” standard generally only applies to crimes, where a statute makes misconduct a violation, misdemeanor, or felony.

Supervisors Of The Checklist Elected for six-year terms, supervisors are responsible for registering voters, removing voters who permanently move, die, or otherwise are disqualified, preparing, posting, revising, and certifying the checklist in their town or ward. In cities, these officials are often termed Registrars.

Swearing In The administration of the oath of office to election officials or other elected or appointed officials.

Table Top Voting Screens A three sided table top screen which is an alternative to a voting booth. A voting screen is used to ensure privacy when voters wish to sit at a table to mark their ballot.

Tally Sheet An election form used to count votes. Samples are provided in the appendix or moderators may devise their own tally sheets.

Temporary Absence-Domicile/Voter Registration A voter does not lose his or her voting domicile because of a temporary absence. For example a voter may retain an established domicile while the voter or his or her spouse is: employed in the service of the United States; engaged in the navigation of the waters of the United States or of the high seas; a teacher in or student at any seminary of learning; confined in any public prison or other penal institution; or a patient or confined for any reason in any nursing, convalescent home or hospital, old folks or old age home, or like institution or private facility. There is no statutorily defined limit on the duration of a “temporary” absence.

Transfer The process for assigning a registered voter to a different town or ward in the event he or she permanently moves to a new address.

Undeclared Voter A registered voter who is not affiliated with (a member of) any recognized political party. At a primary, an undeclared voter may join either party and vote in the primary by requesting that party’s ballot. After voting, the voter may sign the return to undeclared list or form to once again become undeclared.

Undervote Voting for fewer choices than were available to the voter for a given office. For example, voting for only one candidate when the instructions for the office say “vote for not more than two.” In the event of an undervote, the vote is legally counted as one vote for the chosen candidate. The voter in effect abstains from voting for the second seat.

Unofficial Ballot Plain paper distributed to voters at a town, school, or village district meeting, upon which the voter writes the name of the candidate they wish to vote for. For warrant article questions the unofficial ballot is sometimes a preprinted “yes/no” ballot. The moderator instructs voters on the use of this ballot. A voter may circle their choice or may be directed to tear the ballot into two and deposit the side with their chosen vote. Unofficial ballots are used at business meetings when a secret ballot vote is called for. Towns, school districts, and village districts that have not voted to adopt official ballot voting may choose its officers at a meeting using an unofficial ballot.

UOCAVA The Uniformed and Overseas Citizens Absentee Voting Act, a federal law. Along with the federal Military and Overseas Voter Empowerment Act (MOVE), it prescribes forms and processes for voter registration, requests for absentee ballots, and absentee ballot delivery deadlines. They cover members of all the active-service military branches, their dependents, and overseas United States citizen voters.

Vacancy (Office) - Primary The circumstance when there is no party candidate for an office after the primary election.

Valid Voting Marks While the instructions for voting on all ballots printed by the Secretary of State direct the voter to completely fill in the oval, any mark that makes it more likely than not that the voter intended to vote for a candidate or question shall be counted as a vote for that candidate or choice for a question.

Voter Information Look-up A tool available on the Secretary of State’s website that allows a voter to:

- Verify his or her political party affiliation;
- Verify whether his or her absentee ballot application was received;
- Verify whether the clerk has mailed the voter an absentee ballot;
- If the absentee mailing sent by the clerk to the address requested by the voter was returned as undeliverable, the reason provided by the US Postal service for non-delivery;
- Verify whether the clerk has received an envelope that should contain a completed absentee ballot from the voter;
- After an election, verify whether his or her ballot was rejected (if no rejection is listed, the absentee ballot was counted);
- Obtain the address and hours for his or her polling place; and
- Obtain the name, address, mailing address and contract information for his or clerk.

Voter Registration A procedure for qualified citizens to submit an application, prove their qualifications, and have their name added to the checklist for a town or ward.

Voter Verification A process by which local election officials use available public records or the Secretary of State follows up with the voter, typically with a mailed post card or letter, to verify the voter’s domicile or where a person voted without photo ID, that it was the voter, and not an imposter, who voted.

Ward A subdivision of a city. For election law purposes a ward is the equivalent of a town. The New Hampshire Constitution in the context of elections refers to town and wards. RSA 652:16 provides that the “term "town" shall include wards in cities.”

Warrant The official legal notice to voters that an election will be held. It is a document stating: the hours during which the polls will be open and the hour before which the polls may not close, offices to be elected, questions to be voted on by ballot, and the polling place location.

Warrant Articles The offices and questions to be voted on at an election or annual meeting. The warrant listing of the articles is the legal notice to the voters of what will be considered/voted on at the election or meeting.

Whaling A cyber security attack that involves a realistic looking e-mail claiming to come from a legitimate looking source, that requests you download or view a malicious document.

Write-in A situation when the voter writes the name of the person he or she wishes to vote for, who is not a candidate whose name is printed on the ballot, on the write in line for that office.

Write-in Ballot See Absentee Write-In Ballot

Wrongful Voting Purposely or knowingly making a false statement regarding one’s qualifications when registering to vote; when obtaining an official ballot; when casting a vote by official ballot, or when applying for a photo identification card for voting purposes.

XXI. OATHS AND AFFIDAVITS

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INDIVIDUALS REQUIRING AND PROVIDING ASSISTANCE

Immediately before each event when a person assists another requiring assistance in voting, the voter requiring assistance must first swear an oath that he or she needs assistance, and the person providing assistance must secondly swear an oath not to influence the voter.

OATH OF INDIVIDUAL REGISTERED VOTER REQUIRING ASSISTANCE IN VOTING PURSUANT TO RSA 659:20.

I,____, do solemnly swear (or affirm) that I am unable to mark a ballot and require assistance in voting. See RSA 659:20.

OATH OF INDIVIDUAL PROVIDING ASSISTANCE TO A VOTER PURSUANT TO RSA 659:20.

I,____, do solemnly swear (or affirm) that in providing assistance to_____(voter), I shall mark the ballot as directed by him/her and will not unduly influence his/her decision with respect to selecting any candidate or issue presented on the ballot and that I shall thereafter give no information regarding same.

See RSA 659:20.

Any person approved by the moderator may assist a voter, except the voter's employer or union official. Otherwise the voter may choose the assistant. There is no requirement that the person assisting be a registered voter or be age 18 or older.

OATH OF OFFICE

Oath of Office

Town/City of _____

I _____ do solemnly and sincerely swear and affirm that I will bear faith and true allegiance to the United States of America and the state of New Hampshire, and will support the constitution thereof. So help me God.

I _____ do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent upon me as (write in POSITION/TITLE) _____ for a term of ____ years, (for temporary election officials: for a term ending upon finalization of this election), according to the best of my abilities, agreeably to the rules and regulations of this Constitution and the Laws of the State of New Hampshire. So help me God.

(Any person who is scrupulous of swearing may omit the word "swear" and likewise the words, "So help me God," adding instead, "This I do under the pains and penalties of perjury.")

(Election Official/Appointee Signature)

(Date)

Sworn Before: Moderator, Town/City Clerk, Selectman or Justice of the Peace-Signature
RSA 42:2

Sworn Before: Print Name

All individuals appointed to fill vacant elected positions serve until the following election, except when the law provides that they serve for the remainder of the vacant term.

Elected Appointed (If appointed: Need election official title and signature below)

(Please check one)

Term Expires: ____/____/____

Phone (____) ____ - _____ W C H (Circle One) Phone (____) ____ - _____ W C H (Circle One)

Address: _____

Appointed by: _____

Appointed by: _____

Appointed by: _____

E-Mail Address: _____

Date Appointed: ____/____/____

2018 v3

OATHS OF OFFICE BASICS

WHO NEEDS AN OATH?

RSA 42:1 Oath Required. “Every town officer shall make and subscribe the oath or declaration as prescribed by Part 2, Article 84 of the Constitution of New Hampshire and any such person who violates said oath after taking the same shall be forthwith dismissed from the office involved.”

RSA 658:4 –Oath; Term. Each inspector of election shall be sworn to the faithful performance of his duties and shall hold office for 2 years from August 1 in the year in which he is appointed or until a successor is appointed and qualified.

RSA 669:9 Oaths of Town Officers. – All town officers elected as provided in this chapter shall take an oath of office as provided in RSA 42 before qualifying for office.

RSA 669:10 Term of Office. – I. Except as otherwise provided, the term of office of any officer elected under this chapter shall begin upon his election and qualification for office and shall end upon the election and qualification of his successor.

WHEN MUST AN OATH BE TAKEN?

Each time the position is being filled, whether it is full term, partial term, appointment to elected position or re-election.

WHO MAY ISSUE AN OATH OF OFFICE?

RSA 42:2 Before Whom. – The moderator, town clerk, one of the selectmen or a justice of the peace is authorized to administer the oath required. The person administering the oath signs it as well as the person taking the oath. A term length and/or expiration must be noted. An oath template may be found in *ElectioNet* / Help / Instructions. RSA 42:7 requires that if the oath is taken before someone other than the clerk, one of the selectmen or a justice of the peace, a certificate of the oath taking must be filed with the clerk within 6 days.

DOES A TOWN CLERK DEPUTY NEED TO BE SWORN IN?

Yes. The deputy town clerk must take the oath of office when appointed. Also, each time the town clerk takes a new oath the deputy also needs to be sworn in. Whether the clerk is new or an incumbent, the deputy needs to take the oath also. RSA 41:18, RSA 92:2

WHO NEEDS AN OATH FOR ELECTIO^{NET} PURPOSES?

Town clerks, deputies, and supervisors of the checklist need to have a *current oath* on file with the HAVA office. These need to be updated and sent to the HAVA office each time the *ElectioNet* user swears to a new term of office or is a new appointee. A good practice would be to send them immediately after an election.

WHERE ARE THE OATHS MAINTAINED AND RETAINED?

RSA 42:8 Record. – “The town clerk shall make a record of every oath of a town officer taken in open town meeting at the time of the election, and of every such oath taken before him at any other time and place, the import of which record may be that the officer took the oath of office prescribed by law; and he shall record and keep on file every certificate filed with him pursuant to RSA 42:7.”

MAINTAIN CITY/TOWN DATA

Election official’s information must also be maintained by the town clerk. This information is required by RSA 654:45 VII. “The city and town clerk shall enter, maintain, and keep up to date election official contact information and polling place information as determined by the secretary of state in the statewide centralized voter registration database...” *ElectioNet: Activities / Maintain*

HOW LONG DO YOU HAVE BEFORE AN OATH MUST BE TAKEN?

RSA 42:3 Swearing in of Officers. – Any person elected to an office where no other person was a candidate on the ballot for that office and no write-in candidate received 5 percent or more of the votes cast for that office, may be sworn in after the results are declared from the election and the annual business meeting has ended or at any time thereafter provided the oath is taken by the deadline established by RSA 42:6.

RSA 669:10 Term of Office. –II. No person shall assume a town office until after the time period for requesting a recount is over. The timeline for requesting a recount is set forth in RSA 669:30. If a recount is requested for a town office, no person shall assume that office until after the recount is completed.

RSA 42:4 Notice to Take. The clerk shall notify persons elected to office of their election and duty to take the oath of office. See RSA 42:4 for alternative means of making notice.

RSA 42:6 Penalty for Neglect to Appear. – “...but in no case later than 30 days after the person's election, to appear before the town clerk and take the oath, shall be guilty of a violation, and any fines shall be appropriated as in RSA 42:5.”

Note: Best practice would be any time after the election if RSA 42:3 applies; otherwise, if no recount is requested, as soon as practical after the deadline for requesting a recount has expired.

A person declared elected at the election whose election is affirmed by the recount may take the oath of office and assume office at any time following declaration of the results of the recount.

When a different person is declared elected following the recount, if no appeal is taken that person may take the oath of office and assume office on the sixth day following the date of the recount.

If a different person is declared elected following the recount, and an appeal is taken, that person may not assume office until the superior court has issued a final ruling on the appeal. The person holding the office prior to the election shall continue to hold the office until a successor is declared elected by the superior court and the person declared elected by the court takes the oath of office. RSA 669:34.

See RSA 669:34 if the circumstance involves a multi-seat office.

Your town should set a specific date and time when the candidates should appear to take their oath which should be no later than 30 days after the election.

RSA 669:34 Declaration of Results. – I. Upon completion of the recount, the board of recount shall publicly declare the results and certify such declaration to the town clerk. See RSA 669:34, II – VI for further details.

**DOMICILE AFFIDAVIT
(RSA 654:12)**



Please print:

Date: _____

Full Name: _____

Current Domicile Address: _____
(Street and House (Apt) Number) (Town or City/State/Zip Code) (Ward)

Current Mailing Address (if different): _____
(Street and House (Apt) Number) (Town or City/State/Zip Code)

Telephone number (requested but optional) _____

Email address (requested but optional) _____

Date when current domicile was established: _____
Month Year

Place of birth: _____

Date of birth: _____

Address of last previous domicile: _____
(Street and House (Apt) Number)

(Town or City) (State) (Zip Code)

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not currently in possession of necessary documents to prove my domicile and that my established domicile is at the current domicile address I have entered above. I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

(Signature of applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

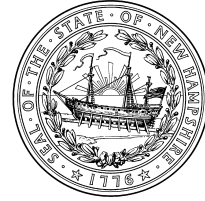
On the date shown above, before me, _____ appeared _____
(print name of person sworn before as indicated below) (print name of person whose signature is being notarized/witnessed)

[known to me or satisfactorily proven (circle one)] to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

(moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace)

03/2017

QUALIFIED VOTER AFFIDAVIT
(Identity, Citizenship, Age)
(RSA 654:12)



Please Print:

Date: _____

Full Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Place of Naturalization: _____

Date of Naturalization: _____

Domicile Address: _____

(Street & House (Apt. Number) (Town or City) (Ward) (State) (Zip Code)

Mailing Address (if different) _____

Telephone number (*requested but optional*) _____

Email address (*requested but optional*) _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, and that to the best of my knowledge and belief the information above is true and correct.

Signature of Applicant

In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, _____ appeared _____
(print name of person sworn before as indicated below) (print name of person whose signature is being notarized/witnessed)

[known to me or satisfactorily proven (circle one)] to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

This affidavit was executed for purposes of proving (check all that apply):

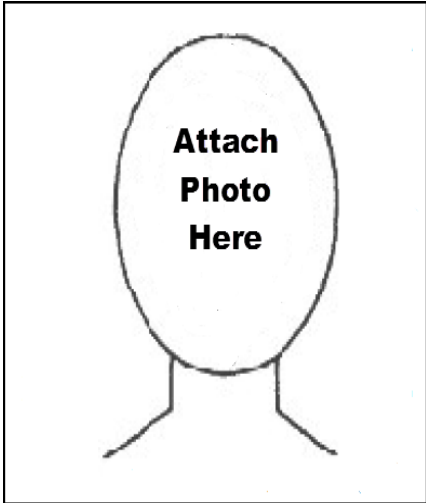
Identity Citizenship Age

(moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace)

10/17



**CHALLENGED VOTER
AFFIDAVIT**
(RSA 659:27, 28-32; RSA 652:14)



I, _____, do solemnly swear (or affirm) under
(Print name of voter)
penalties of voter fraud, that I am the identical person whom I represent myself to be, that I am a
duly qualified voter of this town (or ward), and have a legal domicile therein.
My telephone number (*requested but optional*) is _____ and my
Email address (*requested but optional*) is _____.

(Signature of Voter)

- Check one election:** Town/ City Election Date: ____/____/____
 State Special Election Date: ____/____/____
 State Primary Election Date: 09/13/2022
 State General Election Date: 11/08/2022

the said _____
took and subscribed the above oath before the below-named officer.

(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar)

NOTE TO VOTER: RSA 659:13, IV. (a) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter who executed a challenged voter affidavit or affidavit of religious exemption.....



State of New Hampshire
Affidavit of Religious Exemption
(RSA 659:13-b)

Date: _____

Name: _____

Domicile Address: _____

Date of birth: _____

I hereby swear or affirm that because of my religious beliefs, I object to having my photograph taken and that I do not possess a form of identification that meets the requirements of the election laws of this state showing my photograph.

I hereby swear or affirm, under the penalties of voting fraud set forth below, that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

(Signature of affiant)

In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

This affidavit was executed before us on the date shown above and the person who subscribed his or her name to the foregoing affidavit swore that the facts contained in this affidavit are true to the best of his or her knowledge and belief.

Signature of Election Official

Name and Title of Election Official: _____
(Moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, or deputy registrar)



STATE OF NEW HAMPSHIRE
Asserting a Challenge
(RSA 659:27-a)

No challenge may be asserted except in the form of a signed affidavit, under oath administered by an election official, in the following form:

Name of Person Making the Challenge (Please Print):

Last Name First Name Middle Name (Jr., Sr., II,III)

Party affiliation:

If person making the challenge is a voter: Physical Address - Street Name & Number

Street Number Street Name Apt/Unit City/Town Ward Zip Code

If person is a political party or attorney general appointee: Mailing Address & Phone Number:

Mailing Address Phone Number

INFORMATION ON THE VOTER BEING CHALLENGED

The person making the challenge shall complete the following:

Name being used by the voter who you wish to challenge (Please Print):

Last Name First Name Middle Name

GROUND FOR THE CHALLENGE:

The person making the challenge shall indicate the grounds on which the challenge is made (check all grounds that apply)

- The person seeking to vote is not the individual whose name he or she has given.
The person seeking to vote has already voted in the election at (name the polling place) at approximately (state the time if known).
The person seeking to vote is disqualified as a voter by conviction of a willful violation of the election laws (state offense, court, and date of conviction).
The person seeking to vote is under 18 years of age.
The person seeking to vote is not a United States Citizen.
The person seeking to vote is not domiciled in the town/ward where he/ she is seeking to vote (state person's true domicile - town/city).
The person seeking to vote does not reside at the address listed for that person on the checklist.
The person seeking to vote is an incarcerated convicted felon who is currently sentenced to incarceration (state the name of the institution person is in).
This is a primary and the person seeking to vote in the (state political party name) primary is not a declared member of the party he/she claims to be affiliated with.
The person seeking to vote is ineligible to vote pursuant to the following state or federal statute or constitutional provision:

BASIS FOR THE CHALLENGE: The person making the challenge shall state the specific source of the information or personal knowledge upon which the challenge of the particular individual is based:

OATH: The person making the challenge shall complete the following:

I hereby swear and affirm, under the penalties of perjury, that to the best of my knowledge and belief the information above is true and correct.

_____ (Signature of Challenger)

_____ (Date)

On the date shown above, before me _____ (print name of notary public, justice of the peace, election officer)

appeared _____, known to me or satisfactorily proven (print name of person whose signature is being notarized)

(circle one) to be the person whose name appears above, and he/she subscribed his/her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best of his/her knowledge and belief.

Notary Public / Justice of the Peace / Official Authorized by RSA 659:30

Date

TO BE COMPLETED BY THE MODERATOR

Ruling on the challenge: If the ground at issue is age, citizenship, or domicile: The supervisors of the checklist have ruled that the challenged voter is (**check one**):

___ qualified as a voter

___ not qualified as a voter.

The moderator rules on challenges based on other grounds. The moderator rules that the challenge is (**check one**):

___ well grounded

___ not well grounded.

If the moderator rules that the voter is not qualified or that the challenge is well grounded, the challenged person may vote only if he or she completes and swears to a challenged voter affidavit.

XXII. ABSENTEE VOTING

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STATE OF NEW HAMPSHIRE
Application for State Election Absentee Ballot-RSA 657:4

Absence, Religious Observance, or Disability
(Uniformed and Overseas Citizen Voters Residing Outside the U.S. use the federal post card application)

For Official Use Only
Voter Not registered

I. I hereby declare that (check one):

- I am a duly qualified voter who is currently registered to vote in this town/ward.
I am absent from the town/city where I am domiciled and will be until after the next election, or I am unable to register in person due to a disability, and request that the forms necessary for absentee voter registration be sent to me with the absentee ballot.

II. I will be entitled to vote by absentee ballot because (check one):

- I plan to be absent on the day of the election from the city, town, or unincorporated place where I am domiciled.
I am confined in a penal institution for a misdemeanor or while awaiting trial.
I am requesting a ballot for the presidential primary election and I may be absent on the day of the election from the city, town, or unincorporated place where I am domiciled, but the date of the election has not been announced.
I cannot appear in public on election day because of observance of a religious commitment.
I am unable to vote in person due to a disability.
I cannot appear at any time during polling hours at my polling place because of an employment obligation.

For use only on the Monday immediately prior to the election: I cannot appear at my polling place on election day because the National Weather Service has issued a winter storm warning, blizzard warning, or ice storm warning for election day applicable to my city, town, or unincorporated place and either (check one):

- I am elderly or infirm or I have a physical disability, and would otherwise vote in person but I have concerns for my safety traveling in the storm.
I anticipate that school, child care, or adult care will be canceled, and would otherwise vote in person but will need to care for children or infirm adults.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24

III. I am requesting an official absentee ballot for the following election (check only one):
*Required for Primary Elections: I am a member of, or I am now declaring my affiliation with a party and I am requesting a ballot for that party's primary (check only one):

- *State Primary Election to be held on September 13, 2022
Democratic Party Republican Party
State General Election to be held on November 8, 2022

OR

- *State Special Primary Election to be held on / /
Democratic Party Republican Party
State Special General Election to be held on / /

Turn Over - You Must Complete the Page 2



Voter ID #

Date Returned: / /

Date Mailed: / /

Date Requested: / /

Last Name:
First Name:

IV. Applicant's Name (Please Print):

Last Name First Name Middle Name (Jr., Sr., II,III)

Applicant's Voting Domicile (**home**) Address:

Street Number Street Name Apt/Unit City/Town Ward Zip Code

Mail the ballot to me at this address (**if different than the above home address**)

Street or PO Box # Street name Apt/Unit City/Town State Zip Code

Applicant's Phone Number: (_____) _____ - _____
(Cell phone or number where you can be contacted prior to and on election day is preferred)

Applicant's Email Address: _____@_____

Applicant's Signature: _____ Date Signed: _____

The applicant must sign this form to receive an absentee ballot. Any person who witnesses and assists a voter with a disability in executing this form shall print and sign his or her name in the space provided on the application form.

I attest that I assisted the applicant in executing this form because he/she has a disability.

Signature _____ Print Name _____

Mail/fax/email or hand deliver this completed form to your local City/Town Clerk.

For clerk addresses and fax numbers: <https://app.sos.nh.gov>

Visit the web site: <https://app.sos.nh.gov> to track your absentee ballot. You may verify receipt of your application, obtain the date when your absentee ballot was mailed to you, the date the clerk receives your completed absentee ballot, and after the election learn if your absentee ballot was rejected/not counted and why. Contact your clerk if you have questions regarding the information on the "Voter Information Look-up / Absentee Ballot Search" site.

For Official Use Only:

Voter Verified

Page 2 of 2

5/22

ABSENTEE - NOT REGISTERED TO VOTE NOTICE (RSA 654:16; 657:16)

TOWN/CITY OF: _____

You are not yet registered to vote.

To register to vote without appearing before the Supervisors of the Checklist or the Town/City Clerk you must submit the following forms and **return them in the larger envelope**. I have checked the proof needed below.

You must submit proof of: **Identity** **Evidence of Domicile**

		Form or Proof	Form
Examples of Proof for:	Identity & Evidence of Domicile	Voter Registration Form	
		Affidavit Form (Absence from Town); or	
		Affidavit Form (Physical Disability)	
		A copy of a valid New Hampshire Driver's License, non-driver ID, including a "REAL ID," or an ID for voting purposes only issued by NH DMV showing the address claimed as domicile on the Voter Registration Form. Residents of a nursing home or similar facility may prove identity and domicile by a written statement from the administrator or designee.	
	Identity	A copy of a: photo ID driver's license or non-driver ID from any state or the federal government; armed services identification; United States passport or pass card; valid student ID from NH college, university, or career school, NH public high school, NH non-public high school; Dartmouth College; UNH system college or university, and community college system. Except for those 65 or older, the ID expiration date may not be more than 5 years past. A photo ID determined to be legitimate by the supervisors, moderator, or clerk.	
	Evidence of Domicile	A copy of: Rental agreement, lease or deed; Tax bill or similar government issued documents; Document from school showing child attending and showing domicile address; Vehicle registration showing domicile address and applicant's name; Dog license showing applicant's name and domicile address; Postal Service change of address receipt, canceled mail showing delivery by USPS, utility bill, or other document showing applicant's name and domicile address.	

To register as a voter:

1. Properly complete the **forms** indicated above;
2. Ensure that you have signed the **forms**;
3. Ensure that a witness has signed the Absentee Registration Affidavit form;
4. Ensure that you have submitted a readable copy of some form of **proof of identity, and evidence of domicile**;

To return a completed absentee ballot at the same time:

5. Place the voter registration form, absentee voter registration affidavit, and proofs of identity and evidence of domicile in the larger absentee ballot mailing envelope, not in the smaller affidavit envelope, and return them with your marked ballot which should be sealed in the smaller affidavit envelope;
6. A person assisting a blind voter or voter with a disability who needs assistance executing the affidavit on the absentee ballot affidavit envelope shall make and sign a statement on the envelope acknowledging the assistance in order to aid the moderator on election day.
7. Before sealing the larger envelope, make sure you properly complete and sign the smaller affidavit envelope.

If you are not registered to vote and return your absentee ballot without submitting the additional forms and information described above your ballot will not be counted!

Clerk's phone number/email _____

2022 ABSENTEE VOTER REGISTRATION REQUIREMENTS AND INSTRUCTIONS

You may register to vote by absentee (by mail) if one of the following is true:

- You will be absent from the town or city on the dates/times when the Supervisors of the Checklist meet to receive voter registration applications. The supervisors are required to meet on a date 6 to 13 days before the September 13, 2022 primary and again before the November 8, 2022 general election;
 - Absence includes an employment obligation that prevents you from attending a session of the supervisors. The term “employment” includes the care of children and infirm adults, with or without compensation.
- You cannot appear in public because of observance of a religious commitment;
- You are unable to vote in person by reason of a physical disability; or
- You are a victim of domestic violence, have an active protective order, or are participating in the Attorney General’s address confidentiality program.

IF ANY OF THE ABOVE CIRCUMSTANCES APPLIES TO YOU, PLEASE CAREFULLY READ THESE ABSENTEE VOTER REGISTRATION INSTRUCTIONS.

STEP 1: Follow the instructions on the application form and absentee registration affidavit. Ensure you provide all required information. Call your clerk’s office if you have any questions.

STEP 2: If you require assistance due to being blind or have a disability, you may have someone else assist you.

STEP 3: Complete and sign the Voter Registration Form.

STEP 4: Complete and Sign the Absentee Registration Affidavit:

Use the “disability” affidavit if you have a disability.

Use the “temporarily absent” affidavit if you will be unable to attend the supervisors’ sessions.

Have a witness observe you signing the Absentee Registration Affidavit. Have the witness sign the form.

STEP 5: Enclose copies of proof of identity and domicile with the completed Voter Registration Form and Absentee Registration Affidavit.

If you are registering before applying for and receiving an absentee ballot:

STEP 6: Mail the completed forms and copies of proof to your clerk.

These instructions are for applicants who are applying for absentee voter registration (registration by mail). To vote in the September 13, 2022 Primary and/or November 8, 2022 General election by absentee, submit an absentee ballot request to the clerk. The Request form is available from your clerk or on the Secretary of State’s web site. <https://sos.nh.gov/elections/voters/absentee-ballots>

If you are registering, have received your absentee ballot, and are returning both the absentee registration and marked absentee ballot in one envelope place the marked ballot in the affidavit envelope, sign & seal. Place the completed absentee voter registration form, affidavit, and proof documents in the outer, mailing envelope.

If you are unable to complete any of these steps, contact your clerk for assistance. You may request accommodation if you do not have access to a witness or the ability to provide copies of proof of identity and domicile.

2022 Absentee Ballot Requirements and Instructions
For your absentee ballot vote to be counted, please follow these steps:

STEP 1: You must be qualified to vote by absentee ballot because you will be absent on election day, which includes work obligations including care of children or infirm adult(s), you are confined in a penal institution for a misdemeanor or while awaiting trial, you cannot appear in public on election day due to a religious commitment, or you have a disability.

STEP 2: Fill out your ballot. Follow the instructions on the ballot. If you require assistance due to a disability, you may have someone else assist you. The person who assists a voter who has a disability must sign a statement acknowledging the assistance on either the absentee ballot application form and/or affidavit envelope (See Step 4 below).

Important: When filling out your ballot, completely fill in the oval to the right of your choice on the ballot. If the instructions indicate you may vote for more than one candidate for a particular office, do not vote for more than the number of candidates stated in the instructions. If you vote for more than the stated number of candidates, your vote for that office will not be counted.

STEP 3: Once finished marking the ballot, the voter or the person assisting the voter must place the ballot inside the smaller affidavit envelope sent to the voter with the ballot, then seal that smaller affidavit envelope. RSA 657:17

STEP 4: Next, the applicant must sign the affidavit printed on the outside of the affidavit envelope, unless that person is unable to sign and receives assistance due to a disability. The signature certifies under penalty of voting fraud that you meet one of the requirements to vote absentee, RSA 657:7. If the voter is unable to sign due to disability, the person assisting the voter must instead complete the section of the application and affidavit that reads “I attest that I assisted the applicant in executing this form because he/she has a disability.”

Signature _____ Print Name _____ RSA 657:4; 657:17.

STEP 5: Place the completed affidavit envelope, containing the marked ballot, inside the larger envelope.

If you are not yet registered and are returning absentee voter registration forms and proof of qualifications, place those documents inside the larger envelope.

Do not place voter registration documents in the smaller affidavit envelope. Seal the larger envelope.

STEP 6: In the upper left corner of the larger envelope, print the voter’s name, address, and voting place. RSA 657:17. Place postage on the larger envelope and mail it to the clerk. As an alternative, the voter, or a delivery agent may personally deliver the envelope to the clerk. If delivered to the polls on election day by a delivery agent he or she will be required to present government issued photo identification or have his or her identity verified by the clerk and complete a form provided there by the clerk. RSA 657:17. Family members, nursing home and elder care facility administrators, and a person assisting a voter with a disability who signs the absentee ballot affidavit (limited to delivering ballots for 4 voters) may be a delivery agent. See RSA 657:17: <http://www.gencourt.state.nh.us/rsa/html/LXIII/657/657-17.htm>

The envelopes containing your absentee ballot must be received by the clerk no later than 5:00 PM on election day. RSA 657:21-a, V; 657:22.

NOTE: If the voter delivers the absentee ballot and affidavit, sealed in the larger envelope in person to the clerk, the voter may voluntarily prove his or her identity using a qualified photo identification, such as a driver’s license or non-driver ID issued by any state. If the voter proves identity, the larger envelope and the Clerk’s list of absentee voters will be marked “voter verified.” If the voter’s absentee ballot is challenged on election day, the Moderator, when ruling on the challenge, may consider this evidence that the voter’s identity was verified by the clerk.

Visit the Voter Look-up website: <https://app.sos.nh.gov> after the next session of the supervisors, to verify that you have been registered. Contact your clerk if you have questions regarding the information on the Voter Look-up website. RSA 657:26.

ABSENTEE VOTER REGISTRATION FORM – PHYSICALLY DISABLED

**STATE OF NEW HAMPSHIRE
ABSENTEE VOTER REGISTRATION FORM
(RSA 654:17)**



Enabling Residents of a Town (City) Who are *Physically Disabled* to Register of

Vote AFFIDAVIT (Physical Disability)

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on _____, 2022, except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability to personally appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile or shall send a photograph or photocopy of that proof to my clerk from the following email address: _____

(a) A copy of a current and valid New Hampshire driver’s license or an armed services identification or other photo identification issued by the United States government that shows my name and address: or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator’s duty to provide such a letter upon my request;

4) That I acknowledge that if I do not provide a copy of proof of identify and domicile as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

AFFIRMATION

I, _____, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the _____ day of _____, 2022, the above named, _____, having satisfied me as to his or her identity signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Witness

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

This form and the Voter Registration Form, when completed, are to be sent directly to the Town or City Clerk of your domicile.

ABSENTEE VOTER REGISTRATION FORM – TEMPORARILY ABSENT

**STATE OF NEW HAMPSHIRE
ABSENTEE VOTER REGISTRATION FORM
(RSA 654:17)**



**Enabling Residents Temporarily Absent from Town (City) to Register of Vote
AFFIDAVIT**

I, _____ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of _____, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on _____, 2022, except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I am temporarily residing in _____
(city and state) or (city, province and country) (zip code)

4) That I hereby enclose one of the following as proof of identity and domicile:
(a) A copy of a current and valid New Hampshire driver’s license or an armed services identification or other photo identification issued by the United States government that shows my name and address; or
(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, other government document that shows my name and address, or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator’s duty to provide such a letter upon my request;

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

Signature of Applicant

Date

AFFIRMATION

I, _____, the undersigned witness, do hereby swear or affirm, under the penalties for voting fraud set forth below, that on the _____ day of _____, 2022, the above named, _____, having satisfied me as to his or her identity signed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Witness

Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

This form and the Voter Registration Form, when completed, are to be sent directly to the Town or City Clerk of your domicile

Federal Post Card Application Form

Download form from: <https://www.fvap.gov/uploads/FVAP/Forms/fpca.pdf>

(Last Visited 8/4/2022)

Voter Registration and Absentee Ballot Request

Federal Post Card Application (FPCA)

This form is for absent Uniformed Service members, their families, and citizens residing outside the United States. It is used to register to vote, request an absentee ballot, and update your contact information. See your state's guidelines at FVAP.gov.

Print clearly in blue or black ink, please see back for instructions.

1. Who are you? Pick one.

- I request an absentee ballot for all elections in which I am eligible to vote AND:
- I am on active duty in the Uniformed Services or Merchant Marine -OR- I am an eligible spouse or dependent.
- I am a U.S. citizen living outside the country, and I intend to return.
- I am a U.S. citizen living outside the country, and my intent to return is uncertain.
- I am a U.S. citizen living outside the country, I have never lived in the United States.

Last name	<input type="text"/>	Suffix (Jr., II)	<input type="text"/>	<input type="checkbox"/> Mr. <input type="checkbox"/> Miss <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms.
First name	<input type="text"/>	Previous names (if applicable)	<input type="text"/>	
Middle name	<input type="text"/>	Birth date (MM/DD/YYYY)	<input type="text"/>	
Social Security Number	<input type="text"/>	Driver's license or State ID#	<input type="text"/>	

2. What is your address in the U.S. state or territory where you are registering to vote and requesting an absentee ballot?

Your voting materials will not be sent to this address. See instructions on the other side of form.

Street address	<input type="text"/>	Apt #	<input type="text"/>
City, town, village	<input type="text"/>	State	<input type="text"/>
County	<input type="text"/>	ZIP	<input type="text"/>

3. Where are you now? You MUST give your CURRENT address to receive your voting materials.

Your mailing address. (Different from above)

Your mail forwarding address. (If different from mailing address)

<input type="text"/>	<input type="text"/>
----------------------	----------------------

4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email:	<input type="text"/>	Phone:	<input type="text"/>
Alternate email:	<input type="text"/>	Fax:	<input type="text"/>

5. What are your preferences for upcoming elections?

- A. How do you want to receive voting materials from your election office? (Select One)
- Mail
 Email or online
 Fax
- B. What is your political party for primary elections?
-

6. What additional information must you provide?

Puerto Rico and Vermont require more information, see back for instructions. *Additional state guidelines* may be found at FVAP.gov. You may also use this space to clarify your voter information.

<input type="text"/>

7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of the election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.

Sign here

X

<input type="text"/>

Today's date
(MM/DD/YYYY)

<input type="text"/>

This information is for official use only. Any unauthorized release may be punishable by law. Previous editions are obsolete. Standard Form 76 (Rev.09-2021), OMB No. 0704-0503, NSN 7540-00-043-2033

You can vote wherever you are.

1. Fill out your form completely and accurately.

- Your U.S. address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your state of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. DO NOT write a PO Box # in section 2.
- Most states allow you to provide a Driver's License number or the last 4 digits of your SSN. New Mexico, Tennessee, and Virginia require a full SSN.
- If you cannot receive mail at your current mailing address, please specify a mail forwarding address.
- Many states require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- **Section 6 Requirements:** If your voting residence is Vermont, you must acknowledge the following by writing in section 6: "I swear or affirm that I have taken the Vermont Voter's Oath." If your voting residence is in Puerto Rico, you must list your mother's and father's first name.
- We recommend that you complete and submit this form every year while you are an absentee voter.

2. Remember to sign this form!

3. Return this form to your election official. You can find their contact information at FVAP.gov.

- Remove the adhesive liner from the top and sides. Fold and seal tightly. If you printed the form, fold it and seal it in an envelope.
- All states accept this form by mail and many states accept this form by email and fax. See your state's guidelines at FVAP.gov.

To (Fill in the address of your election office. The address can be found online at FVAP.gov.)

NO POSTAGE NECESSARY IN THE U.S. MAIL - DMM 703.8.0

OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL



International airmail postage is required if not mailed using the U.S. Postal Service, APO/FPO/DPO system, or diplomatic pouch.

From (Your name and mailing address)

U.S. Postage Paid
39 USC 3406
PAR AVION



Agency Disclosure Statement

The public reporting burden for this collection of information, OMB Control Number 0704-0503, is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Service, at whs.mc-aies.eod.mbx.dd-dod-information-collection@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. DO NOT SUBMIT YOUR FORM TO THE E-MAIL ADDRESS ABOVE.

Privacy Advisory

When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

Questions?
Email: vote@fvap.gov

Federal Write-In Absentee Ballot – Voter Information

Download form from: <https://www.fvap.gov/uploads/FVAP/Forms/fwab.pdf>

Federal Write-In Absentee Ballot

- If you do not receive your absentee ballot in enough time to meet your state's deadlines, use this ballot as a backup. If you send in this ballot and receive your state's ballot later, you should fill out and return your state ballot as well, noting that you had previously sent in this ballot. Your election official will count only one ballot.
- The following require you to register and request an absentee ballot before filling out this form: AL, AS, AR, CT, FL, GU, HI, ID, IL, IN, KS, LA, NH, NJ, NM, NY, PA, PR, RI, SD, TX, WI, WV, and WY. If your state or territory is listed, complete a Federal Post Card Application (FPCA) online at FVAP.gov
- If you already registered and requested a ballot, send in the *Voter Information page* and the *Official Backup Ballot*.
- Please be aware that some states will accept this form as registration and as an absentee ballot request for future elections.

Use this form if you are:

- On active duty in the Uniformed Services or Merchant Marine
- An eligible spouse or dependent
- A U.S. citizen living outside the United States

You can vote wherever you are. This is how.

1. Fill out your *Voter Information page* completely and accurately.

- Your U.S. voting residence address is used to determine where you are eligible to vote absentee. For military voters, it is usually your last address in your state of legal residence. For overseas citizens, it is usually the last place you lived before moving overseas. You do not need to have any current ties with this address. **DO NOT** write a PO Box # in section 2.
- Most states allow you to provide a Driver's License number or the last 4 digits of your SSN. New Mexico, Tennessee, and Virginia require a full SSN.
- If you cannot receive mail at your current mailing address, please specify a mail forwarding address.
- Many states require you to specify a political party to vote in primary elections. This information may be used to register you with a party.
- **Section 6 Requirements:** Puerto Rico requires your mother's and father's first name. If registering in Vermont you must acknowledge the following by writing in section 6: "I swear or affirm that I have taken the Vermont Voter's Oath." Additional state guidelines can be found at FVAP.gov.
- Remember to sign the bottom of the *Voter Information page*!

2. Carefully fill out and seal your *Official Backup Ballot*.

- **DO NOT** sign your ballot or include any personal information. Keep your ballot anonymous.
- If using a self-sealing form, remove the adhesive liner, fold and seal tightly.
- If you printed out the form, fold the voted ballot and seal it in an envelope marked "ballot enclosed".

3. Assemble your documents for mailing.

- Put your *Voter Information page* and *Official Backup Ballot* into the mailing envelope.
- You can find the address for your election office at FVAP.gov.
- All states accept this form by mail and many states accept this form by email and fax. See your state's guidelines at FVAP.gov.

Agency Disclosure Statement

The public reporting burden for this collection of information, OMB Control Number 0704-0502, is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.
DO NOT SUBMIT YOUR FORM TO THE E-MAIL ADDRESS ABOVE.

Privacy Advisory

When completed, this form contains personally identifiable information and is protected by the Privacy Act of 1974, as amended.

Questions?
Email: vote@fvap.gov

Voter Information

Federal Write-In Absentee Ballot (FWAB)

Print clearly in blue or black ink, please see back for instructions.

Have you already registered and requested an absentee ballot?

Some states allow you to use this form to register and request ballots for future elections. Visit FVAP.gov for more details.

1. Who are you? Pick one.

For absent Uniformed Service members, their families, and citizens residing outside the United States. I am on active duty in the Uniformed Services or Merchant Marine **-OR-** I am an eligible spouse or dependent. I am a U.S. citizen living outside the country, and I intend to return. I am a U.S. citizen living outside the country, and my intent to return is uncertain. I am a U.S. citizen living outside the country, I have never lived in the United States.

Last name Suffix (Jr., II) Mr. Miss Mrs. Ms.
First name Previous names (if applicable)
Middle name Birth date (MM/DD/YYYY)
Social Security Number Driver's license or State ID#

2. What is your U.S. voting residence address?

Your voting materials will not be sent to this address. See instructions on the other side of form.

Street address Apt #
City, town, village State
County ZIP

3. Where are you now? You MUST give your CURRENT address to receive your voting materials.

Your mailing address. (Different from above) Your mail forwarding address. (If different from mailing address)

4. What is your contact information? This is so election officials can reach you about your request.

Provide the country code and area code with your phone and fax number. Do not use a Defense Switched Network (DSN) number.

Email: Phone:
Alternate email: Fax:

5. What are your preferences for future elections?

A. Do you want to register and request a ballot for all elections you are eligible to vote in? Yes No
B. How do you want to receive voting materials from your election office? Mail Email or online Fax
C. What is your political party for primary elections?

6. What additional information must you provide?

Alabama requires two witness signatures; Alaska, Virginia and Wisconsin, require one witness signature. Puerto Rico and Vermont need more information, see back for instructions. Additional state guidelines can be found at FVAP.gov.

7. You must read and sign this statement.

I swear or affirm, under penalty of perjury, that:

- The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for conviction of perjury.
- I am a U.S. citizen, at least 18 years of age (or will be by the day of election), eligible to vote in the requested jurisdiction, and
- I am not disqualified to vote due to having been convicted of a felony or other disqualifying offense, nor have I been adjudicated mentally incompetent; or if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States, except the jurisdiction cited in this voting form.
- In voting, I have marked and sealed this ballot in private and have not allowed any person to observe the marking of this ballot, except those authorized to assist voters under State and Federal law.

Sign here X **Today's date** (MM/DD/YYYY)

This information is for official use only. Any unauthorized release may be punishable by law. Previous editions are obsolete. Standard Form 186 (Rev. 09-2021), OMB No. 0704-0502, N5N 7540-01-218-4384

Federal Write-In Absentee Ballot – Backup Ballot

Download form from: <https://www.fvap.gov/uploads/FVAP/Forms/fwab.pdf>

Official Backup Ballot

Federal Write-In Absentee Ballot (FWAB)

Print clearly in blue or black ink.

Vote by writing the NAME or PARTY of the candidates you choose. To find out about specific federal candidates and races go to [FVAP.gov](https://www.fvap.gov).

Instructions

- The FWAB is intended to serve as a backup ballot. It can be used to vote for federal offices. Refer to your state or local election official for any special ballot instructions (e.g., instant runoff voting or ranked choice voting).
- State laws vary on the use of the FWAB for state and local contests. Learn more online at [FVAP.gov](https://www.fvap.gov).
- DO NOT write your name or any identifying number (SSN, driver's license) on this ballot.
- If you are voting in American Samoa, Guam, Puerto Rico, or the U.S. Virgin Islands, you may vote for Delegate or Resident Commissioner, and in presidential primaries.
- Photocopy this page if you require additional room for candidates or ballot initiatives.

Federal Offices

President and Vice President

U.S. Senator

U. S. Representative, Delegate, or Resident Commissioner to Congress

Other offices

Office

Candidate name

Political party

Ballot initiatives or other items

Standard Form 186 (Rev.09-2021), OMB No. 0704-0502



STATE OF NEW HAMPSHIRE

Absentee Ballot Return Form

(RSA 657:17)

To be completed by a qualified person who is returning an Absentee Ballot for a different person voting absentee due to Absence, Religious Observance, or Disability

This form MUST be completed for each absentee ballot delivered to the city or town clerk.

For Official Use Only

Voter Not registered

Voter ID #

I. I hereby declare that I am the voter's "delivery agent" because I am (initial the line and circle the relationship that applies to you):

- The voter's spouse, parent, sibling, child, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepparent, stepchild; or
The nursing home administrator, licensed pursuant to RSA 151-A:2, or a nursing home staff member designated in writing by the administrator to deliver ballots; or
The residential care facility administrator, or a residential care facility staff member designated in writing by the administrator to deliver ballots; or
*The person assisting a blind voter or a voter with a disability who has signed a statement on the affidavit envelope acknowledging the assistance. *Cannot deliver more than 4 absentee ballots.

Any person who votes or attempts to vote using an absentee ballot who is not entitled to vote by absentee ballot shall be guilty of a misdemeanor. RSA 657:24

II. Absentee Ballot Voter's Name (Please Print):

Last Name First Name Middle Name (Jr., Sr., II, III)

Absentee Ballot Voter's Domicile (home) Address:

Street Number Street Name Apt/Unit City/Town Ward Zip Code

III. Name of "delivery agent" who delivered the absentee ballot (Please Print) * If you are the person who assisted the blind voter or a voter with a disability you were required to sign the affidavit envelope. By completing this form you are affirming that your name is on the affidavit envelope:

Last Name First Name Middle Name (Jr., Sr., II, III)

Signature: Date Signed

IV. Election Name (check only one and enter date):

- Town/ City Election Date:
State Special Primary Election Date:
State Special General Election Date:
State Primary Election Date: 09/13/2022
State General Election Date: 11/08/2022

V. Proof of Identification (check only one):

- Government-issued Photo ID
Identity verified by city or town clerk

VI. City or Town Clerk signature:

Printed Name of Clerk:

Clerk's Signature: Date Signed:

Date Returned: / /

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NEW VOTER AUTHORIZATION FORM

City/Town of _____

Authorization Form for New Voters

Instructions: Applicants for registration as a voter on election day must complete this form. Once your application to be registered as a voter has been approved, a Supervisor of the Checklist will sign this form. Take this form to the Voter Check-In table. A Ballot Clerk will add your name to the checklist and will issue you a ballot(s).

(For hand count towns only). The ballot clerk will hand this form back to you with the ballot(s). Keep it with you when you go to the voting booth to mark your ballot(s). When you are finished marking your ballot(s), fold the ballot(s) so that your votes cannot be seen and go to the check-out table. Hand this form to the town clerk or a ballot clerk who will add your name to the checklist used to check voters out. Then take your ballot to the moderator who will be positioned by the ballot box. Hand the ballot to the moderator, who will drop it in the ballot box.

This form authorizes the addition of the person named herein to the checklist as a new voter who has registered on election day:

Date: _____

Print your name here:

Print the physical address of your voting domicile:

Party Affiliation as per Voter Registration Form:

Sign the form:

FOR OFFICIAL USE ONLY:

The person named above has been approved by the Supervisors of the Checklist as a new voter.

If this box is initialed by a supervisor, the voter named above does not have photo ID, the voter's photograph has been taken, and the photo is attached to the Qualified Voter Affidavit kept by the supervisors. At check-in for a new voter written onto the checklist write "CVA" between the name and address. Supervisor Initials: _____

Signed _____

(Supervisor of the Checklist)

Types of Documentation Authorized
Voter Registration and Election Day Check-In Documents

Documentation	Identity	Age If DOB is listed on document	Citizen -ship	Domicile If domicile address is listed on document	Election Day Photo ID
New Hampshire driver's license issued to or in the name of the applicant	Yes	Yes	No	Yes	Yes
New Hampshire REAL ID driver's license or non-driver ID	Yes	Yes	No	Yes	Yes
Photo identification card "for voting purposes only" issued by the NH DMV	Yes	Yes	No	Yes	Yes
Valid student photo identification card	Yes	Yes	No	Yes	Yes
Photo driver's license or non-driver ID issued by any state	Yes	Yes	No	Yes	Yes
Photo driver's license or non-driver ID issued by the federal government	Yes	Yes	No	Yes	Yes
United States passport (or passport card)	Yes	Yes	Yes	No	Yes
Valid United States armed services identification	Yes	Yes	No	No	Yes
Photo identification deemed reasonable by supervisors of the checklist, moderator, or clerk (RSA 659:13, II)	Yes	Yes	N/A	Yes	Yes
Valid photo identification issued by the United States government	Yes	Yes	No	Yes	Yes
Valid photo identification issued by state, county or municipal government	Yes	Yes	No	Yes	Yes
Identity verified by supervisor of the checklist, moderator or town, city or ward clerk	Yes	N/A	N/A	N/A	Yes
Naturalization papers if the applicant is a naturalized citizen	N/A	Yes	Yes	Yes	No
New Hampshire vehicle registration issued to or in the name of the applicant	N/A	Yes	No	Yes	No
Any documentation deemed reasonable by the supervisors of the checklist	N/A	Yes	Yes	Yes	N/A
AGE					
Birth certificate	N/A	Yes	Yes	No	No
Any reasonable documentation that applicant will be 18 years of age or older on the day of the next election	N/A	Yes	N/A	N/A	No
AFFIDAVITS					
Qualified Voter Affidavit	Yes	Yes	Yes	N/A	N/A
Domicile Affidavit	N/A	N/A	N/A	Yes	N/A
Challenged Voter Affidavit	Yes	N/A	N/A	N/A	Yes

Voter Registration Form

PLEASE PRINT OR TYPE

NEW HAMPSHIRE VOTER REGISTRATION FORM

RSA 654:7

1. LAST NAME (including suffix if any)		FIRST NAME	FULL MIDDLE NAME		<p>NEW REGISTRATION - I am NOT registered to vote in NH</p> <p>TRANSFER - I am registered to vote in NH and have moved my voting domicile to a new town or ward in NH.</p> <p>NAME CHANGE or ADDRESS UPDATE - I am registered to vote in this town/ward and have changed my name or address.</p>
2. DOMICILE ADDRESS (Street & House (Apt.) Number)		TOWN OR CITY	City Ward	ZIP CODE	
3. MAILING ADDRESS (if different from domicile address)		TOWN OR CITY	STATE	ZIP CODE	
4. PLACE OF BIRTH (Town/City and State)		COUNTRY (if not USA)	DATE OF BIRTH		
5. a. ARE YOU A CITIZEN OF THE UNITED STATES? YES _____ NO _____ b. IF NATURALIZED CITIZEN, GIVE NAME OF COURT WHERE NATURALIZED (Town/City and State)				DATE NATURALIZED	
6. PLACE LAST REGISTERED TO VOTE (Street & House (Apt.) Number)		(Town or City & Ward)	(State and Zip Code)		
7. NAME UNDER WHICH PREVIOUSLY REGISTERED, IF DIFFERENT			8. PARTY AFFILIATION (if any)		
9. DRIVER'S LICENSE NUMBER	STATE (if not NH)	IF NO VALID DRIVER'S LICENSE, PROVIDE THE LAST FOUR DIGITS OF YOUR SOCIAL SECURITY NUMBER			
AFFIDAVIT					
<p>My name is _____ . I am today registering to vote in the city/town of _____, New Hampshire. If a city, ward number _____.</p> <p>I understand that to vote in this ward/town, I must be 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.</p> <p>I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.</p> <p>In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.</p> <p>If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.</p>			<p>I acknowledge that I have read and understand the above qualifications for voting and do hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the above-stated city/town, and, if registering on election day, that I have not voted and will not vote at any other polling place this election.</p> <p>Signature of Applicant _____ Date _____</p> <p>Received by _____</p> <p>Approved by _____ SUPERVISOR OF CHECKLIST/REGISTRAR OF VOTERS</p> <p><i>In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.</i></p>		

SAMPLE



July 2016

Voter Registration Checklist

Both clerks and supervisors of the checklist can accept applications, but only supervisors can make final approval.

NOTE: ANY PERSON CONVICTED OF BRIBERY OR INTIMIDATION RELATING TO ELECTIONS OR ANY WILLFUL VIOLATION OF THE ELECTION LAW IS FOREVER DISQUALIFIED FROM VOTING, SEEKING OR HOLDING PUBLIC OFFICE. THE ATTORNEY GENERAL'S OFFICE WILL NOTIFY CLERKS AND SUPERVISORS OF THESE CONVICTIONS.

When a person who wishes to register to vote presents (1) at a publicly noticed session of the supervisors of the checklist, (2) at the office of the clerk, or (3) to the supervisors table on election day (or if the person contacts the supervisors or the clerk, such as by mail or email), the supervisors or clerk shall:

_____ Provide to the person seeking to register the July 2016 Voter Registration Form.

If the applicant is requesting to be mailed absentee voter registration forms, the Voter Registration Form – July 2016 and Absentee Registration Affidavit shall be sent. A PDF is available in *ElectioNet* that packages these two forms and instructions.

If the applicant is a UOCAVA voter – send a Federal Post Card Application (FPCA) form (or the link to the form)

_____ After the person seeking to register returns the voter registration form, review for completeness.

_____ Identity. Determine if the person has provided information sufficient to satisfy identity. (Refer to the chart “Types of Documentation Authorized by New Hampshire Law for Voter Registration and Election Day Check-In.”)

_____ Age. Determine if the person will be 18 years of age or older on election day. (Refer to the chart “Types of Documentation Authorized by New Hampshire Law for Voter Registration and Election Day Check-In.”)

_____ US Citizenship. Determine if the person is a United States citizen. (Refer to the chart “Types of Documentation Authorized by New Hampshire Law for Voter Registration and Election Day Check-In” as well as “Citizenship -- Documents that are Proof of Citizenship” in the Election Procedure Manual.)

_____ If the person lacks sufficient documentation to prove identity, age, and/or citizenship, provide him or her with the Qualified Voter Affidavit (QVA) form.

_____ The person must swear the accuracy of the completed QVA form under oath, in front of the moderator, deputy moderator, assistant moderator, town clerk, deputy town clerk, city clerk, deputy city clerk, ward clerk, selectman, supervisor of the checklist, registrar, deputy registrar, notary public, or justice of the peace.

_____ Domicile. Determine if the person is domiciled in the town or ward where he or she seeks to vote. (Refer to the chart “Types of Documentation Authorized by New Hampshire Law for Voter Registration and Election Day Check-In.”)

_____ If the person lacks sufficient documentation to prove domicile, the clerk shall provide him or her with the Domicile Affidavit.

_____ Clerks only: Forward all completed forms to the Supervisors of the Checklist for approval.

_____ Supervisors: Upon verified completion of the registration form (with associated documents or, if needed, the completed Qualified Voter Affidavit, Domicile Affidavit, or Absentee Registration Affidavit) accept the person as a registered voter at a publicly-noticed session (majority vote required) unless it is established that it is more likely than not that the applicant is not qualified to vote in the city or town. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit. Absentee Voter Registrations received after the supervisors' last session before an election shall be processed as election day registrations. Decisions to add, remove, or send a voter a 30 day letter must be documented in the minutes of the supervisor's session. The supervisors sessions and minutes are subject to public access by the Right-to-Know law, RSA Chapter 91-A.

_____ If the applicant is deemed not to be qualified as a voter, the supervisors must inform him or her in writing within 7 days of their decision, stating the reason for the denial.

_____ Once accepted as a registered voter, enter the person's information in *ElectionNet* or if already in pending status, approve the applicant.

_____ All voter registration forms and other records relating to voter registration shall be retained securely in a municipal office under the direction of the town or city clerk.

The law on absentee voter registration requires the applicant to sign an absentee voter registration affidavit. A witness must sign the affidavit. The applicant must enclose or provide electronically (usually by e-mail attachment) proof of identity and domicile. If the applicant has completed the voter registration form and signed that form, no further proof of age or United States citizenship is required.

Citizenship – Documents That Are Proof Of Citizenship

Proof of U.S. Citizenship (based on United States Citizenship and Immigration Service publication A U.S. passport or passport card is proof of U.S. citizenship. Many people born outside the United States who are United States Citizens by having a parent who was a United States Citizen at the time of birth, by derived citizenship, or naturalization will have a United States passport or passport card. This document is proof of citizenship regardless of the basis for the person now being a US Citizen.

- For a citizen born in the United States, a birth certificate provides proof of citizenship.
- For a citizen born outside of the United States, as the child of a U.S. citizen parent, citizenship can vary depending on the law in effect when the birth took place. In most cases citizens born outside the U.S. requires a combination of evidence showing at least one parent being a U.S. citizen when the child was born and having lived in the United States or its possessions for a period of time.
 - A Consular Report of Birth Abroad, or FS-240, provides proof of citizenship if the birth was registered at the nearest U.S. consulate when the person was born.
 - A person already in the United States, can obtain a Certificate of Citizenship.
- A Naturalization Certificate or Certificate of Citizenship is proof of citizenship.

See samples below.

Birth Certificate – The design of birth certificates in New Hampshire and in other states has changed over time. There is no one standard form. Supervisors and Clerks must accept as valid any form presented that on its face appears to be a legitimate birth certificate. The sample below shows only the current form of a New Hampshire Birth Certificate.

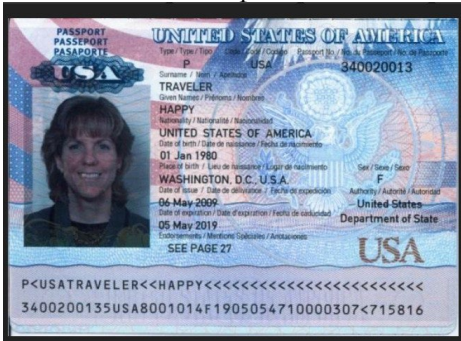
Naturalization Documents – The design of naturalization documents has changed over time. The sample below shows only the form of some current documents. Valid forms may have a different appearance, particularly those that were issued years ago.

If you suspect that the document is a forgery or falsified, unless you have sufficient evidence to immediately call in law enforcement to investigate, register the voter based on their claim that the document is valid. Send a copy or scan of the document to the Elections Division Office or e-mail to nhvotes@sos.nh.gov. We will seek to assist you with validating the document or with your making a referral to the Attorney General.

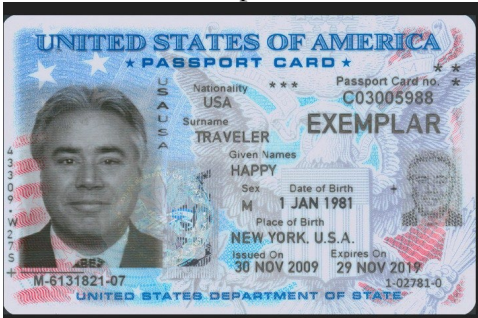
Sample of current version of New Hampshire Birth Certificate



United States Passport



United States Passport Card



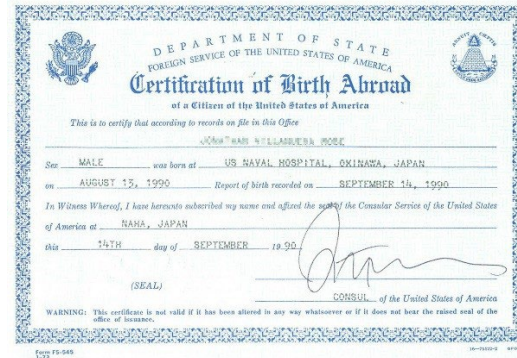
United States Department of State – Consular Report of Birth Abroad – current form



United States Department of State – Consular Report of Birth Abroad – old form- still valid proof of US Citizenship



United States Department of State Certification of Birth Abroad of a Citizen of the United States of America (Form FS-545)



United States Department of State Certification of Birth Abroad of a Citizen of the United States of America (Form FS-1350)



Examples of a United States Certificate of Naturalization



CITIZENSHIP – DOCUMENTS THAT ARE NOT PROOF OF CITIZENSHIP

A Permanent Resident, green card holder, is not a United States Citizen. A Permanent Resident must become a naturalized United States Citizen before he or she is eligible to register and vote.



Example of a United States Certificate of Citizenship



New Hampshire "Real ID" Driver's License or non-driver ID – A non-citizen, for example a permanent resident may obtain a "Real ID" compliant New Hampshire Driver's License. REAL ID Compliant New Hampshire Driver License.



Right to Checklist and ElectioNet Information

	Current “Public Checklist”	Marked Checklist from Prior Election	EHAV – checklist information	EHAV- DFE (electronic file)
Public	Yes - \$25 fee up to 2500 names & \$0.50 per additional 1000 RSA 654:31	Yes – per page copying fee	No	No
State Political Party	Yes - \$25 fee up to 2500 names & \$0.50 per additional 1000	Yes – per page copying fee	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years.	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years.
Candidate who has filed for state office	Yes - \$25 fee up to 2500 names & \$0.50 per additional 1000	Yes – per page copying fee	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years. Statewide or just District.	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years. Statewide or just District.
Candidate who has filed for municipal office	Yes - \$25 fee up to 2500 names & \$0.50 per additional 1000	Yes – per page copying fee	No.	No.
Political Committee registered with SOS under RSA Chapter 664	Yes - \$25 fee up to 2500 names & \$0.50 per additional 1000	Yes – per page copying fee	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years.	Yes, SOS RSA 654:31, IV. History = state and local elections for 2 years.

July 2022

XXIV. ELECTION DAY FORMS, SUPPLIES, EQUIPMENT & SEALS

ELECTION SUPPLIES – SAMPLE LIST

For each town or ward:

Ballot Box (1) (Legitimate-appearing box with “Official Ballot Box” sign recommended as contingency to avoid long lines developing. See page 163 “Plan for Contingencies:

Stapler

Staple Remover Pencil Sharpener Black Pens (8)

Note Pad

Red Pens (4) Fasteners

Regular Pencils (10)

Lights for ballot (1 each booth) Magnifying devices

(1 each booth) Rulers (4)

Scissors Rubber Fingers

Padlock & Keys (1) Alphabet Tabs Masking Tape

String

Paper Clips Manila Folders (5)

Filament Sealing Tape

Refer to Moderator’s list on page 146

Thumb Tacks

Electrical Strip

Extension Cord

Rubber Bands for Ballot Separation Organizer Box

Letter Opener Magic Markers

Guardrail – Rope/Ribbon to establish a divider around the voting area

Scotch Tape Ward Map

Printing Calculator

Privacy Folders for Ballots (where ballot counting devices are in use)

Sticky Notes for Ballot Piles Identification Red

Security Tape (Sealing Ballots)

Signs

Flag

Clip boards (10)

Blank white sheets of heavy paper for letters of alphabet (26), and for signs (10), as needed

Boxes (6) to help supervisors organize new voter registration forms (front side only completed), new voter registration forms (front and back sides completed), name changes, address changes, and other

ELECTION FORMS, DOCUMENTS, & EQUIPMENT CHECKLIST

- Certified Checklists in (and out) lists (signed by supervisors)
- Checklist (1) Posting
- Sealed Box(es) of Official Ballots
Absentee Ballot List from *ElectioNet*
Absentee Ballots
- Absentee Ballot Applications and Envelopes
- Absentee Ballot Return Forms (for delivery by family members or other delivery agents), page 339
- All alphabet letters printed separately on 8 ½” X 11” paper, so letters may be moved quickly to avoid long lines
- Attorney General Checklist (Polling Place Compliance), page 400
- Notice to Voters Sample Ballots Voter Instructions
- Purity of Election Laws
- Voter Registration Form – July 2016
- Ballot Clerk Procedure, starting at page 409
- Voter ID Explanatory Document (version #5- 2022) from <https://sos.nh.gov/elections/elections/election-officials/> (Last Visited 8/4/2022) See Moderator’s list on page 146
- Lists of schools and colleges which provide valid student identification for voting purposes, from <https://sos.nh.gov/elections/information/election-laws/voter-identification-law/> (Last Visited 8/4/2022).
- Accessible Voting System
- Camera and Film for CVAs
- Types of Documentation Authorized by N.H.
- Law for Voter Registration and Election Day Check-In, page 343
- Challenged Voter Affidavits, page 322
- Asserting a Challenge forms, page 324
- Affidavit of Religious Exemption, page 323
- Domicile Affidavit
- Return of Votes Form Moderator Certificate
- Tally Sheets
- Moderator’s Worksheet, page 423
- Reconciliation form page 429
- Label for Resealing Ballots, page 396
- Payroll Forms & W-4 Forms
- Oath of Office Forms
- Evidence of having tested AccuVote device (for towns with counting devices)

XXV. BALLOT COUNTING DEVICES

Printing a Long Results Tape Report	353
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Electronic Ballot Counting Device Procedures	369
Marking a Test Deck for a Ballot Counting Device	371

Printing a Long Results Tape Report

RSA 659:75, II, requires that a paper copy of the long report tape be sent to the Secretary of State with the Return of Votes on election night.

Process for Producing a Long Report Tape from Accuvote Machines.

When the polls have closed and the Ender Card (using both Yes and No buttons) is placed through the Accuvote Machine, a report will print out automatically. This is not the report that is desired. Let the automatically generated report run all the way through and when the Accuvote Machine asks whether another copy is needed, shut off the Accuvote Machine. Turn the Accuvote Machine back on. The Accuvote Machine will then ask a series of questions to be answered.

The questions are:

1. Reprint elections results report? Answer: NO
2. Send results by telephone? Answer: NO
3. Send results by direct mode? Answer: NO
4. Print elections totals report? Answer: YES
5. Print long report? Answer: YES

Print 4 Long Report Results Tapes:

1 – To be kept by the Clerk as a public record

1 – To be kept by the Moderator

1 – To be sent with the Return of Votes to the Secretary of State

1 – To post combined with the hand count results as part of the public notice of the outcome of the election. Initially post at the polling place, when the polling place is closed, take to the clerk's office to be posted there.

After obtaining all necessary reports, simply power the machine off with the red switch on the back of the machine.

This is the process that must be followed in order to have the Accuvote Machine generate a long report that will distinguish Democratic ballots cast from Republican ballots cast.

Electronic Ballot Counting Device
Long Results Tape Explanation of Data

This example uses a Test General Election Ballot Results Tape from Machine ID 1. The device was set to return an overvoted ballot to the voter. The ballot read as overvoted is not counted by the device.

This test used an election date of 07/12/2022, the test was conducted and the report produced on 06/10/2022.

Each long version of a results tape (which can also be referred to as a “report”) contains the following:

```
SHA:F701CFDF72AE66685ED7  |
    61CE5B164E2543DD397B  |
*****
```

“SHA:” is an abbreviation for Secure Hash Algorithm. This SHA message digest is a SHA-1 value, which is a hash of the ABO (ABasic Object) report format. The presence of this text indicates that the ABasic report file used to generate the report has been verified. For auditing purposes, this value is also printed at the top of each memory card label and the SHA values between the memory card and the paper tape reports should match.

```
*****
TEST RESULTS REPORT
*****
```

Report title

```
*****
TEST BALLOT
GENERAL ELECTION
```

Identifies the election and the town/city ward for which the ballot counting device memory card was programmed by the vendor, currently LHS Associates, to count ballots.

```
DATE          07/12/22
```

The date of the election. The date is programmed into the memory card, not taken from a clock in the device.

```
VOTE CENTER ID      1
```

The “Vote Center ID” field is built into the system and represents a unique polling location in the election management system software. A Vote Center can have multiple Machines and/or multiple Precincts assigned to it, but for most cases in New Hampshire, there is only one Precinct and one Machine assigned to each Vote Center, and the Precinct ID and the Machine ID are usually assigned the same number as the Vote Center. While New Hampshire doesn’t

normally use vote centers or precincts in their administration of an election, the voting system software requires these designations be made for the memory card programming purposes. The tapes report a vote center ID that matches the Machine ID.

Precinct 1

The “Precinct” field is built into the system, but not applicable in most polling places in New Hampshire because we do not have multiple voting precincts in one town or city ward. There are exceptions in a small number of towns that have established “additional polling places.” In these towns there is more than one polling place in the town. The town is geographically divided into two or more voting districts, each with its own polling place. Voters are assigned to and may vote at only the polling place serving the geographic area that includes their domicile. The Test Ballot does not have any additional polling places. On the results tape the Precinct is assigned the same number as the Machine ID. For each ballot counting device used at an election the town is required to have two memory cards programmed and tested for each device. This “spare” is a backup which can be put into use if the primary card fails.

MACHINE ID 1

The “Machine ID” field is programmed into the memory card as part of the programming for each election. It is intended to be a unique identifier for the memory card/ballot counting device pairing used at an election. The vendor who programs the memory card chooses the ID number. It is common that the Machine ID is set as the same number used for the Precinct ID and the Vote Center ID.

D/L VERSION 7

The “D/L Version” field is the “download version”, which indicates the number of times a memory card has been programmed with new or changed data. The 7 on this tape reports that this card has had 7 different elections programmed on the card.

COPY 1A

The “Copy” field identifies the Vote Center ID and the memory card copy for each machine in that Vote Center. On this tape, “1A” means that this memory card is from Vote Center “1” and is the first “A” memory card assigned to that vote center. If multiple machines are assigned to a vote center, the system would generate “B”, “C”, etc. designations for each memory card downloaded. As this voter center only had one machine, the memory card for this machine is designated as “A”.

ACCU-VOTE 1.96.13

The “ACCU-VOTE” field identifies the firmware chip in use in the device. This chip contains the core instructions in the device on how it operates and reads the ballot counting instructions stored on the memory card. The firmware is version 1.96.13 in all approved devices statewide and does not contain town or election specific information. The Ballot Law Commission approved the use of “AccuVote-OS Precinct Count 1.96.13 firmware chip and the accompanying election programming software” in an order issued on April 9, 2010. This is the

most recent update of the firmware in New Hampshire. That order rescinded approval of the previously approved firmware AccuVote-OS Precinct Count 1.94w.

REPORT USVT 2.2.4

The “Report USVT” field identifies the report type that is used for this election. The “USVT” report type is used in VT and NH.

The “2.2.4” identifies the ABasic version that was used to create this USVT report type.

TIME: 11:56:4706/10/22

The “Time” field reports the date and time when the device produced the election results report. For this Machine ID 1 results tape, it was produced at 11:56 and 47 seconds AM on June 10, 2022.

```
=== OPTIONS SETTINGS ===  
RETURN / PRINT OVERRIDE:  
OVERVOTED RACES      Y/N  
BLANK VOTED RACES   N/N  
UNDERVOTED RACES    N/N  
ALL RACES BLANK     N/N  
STR PARTY OVERVOTES N/N  
MULTI-PARTY VOTES   N/N  
DUPLICATE VOTES     N/N  
INVALID PREF. VOTE  N/N
```

The Options Settings section of the report documents how the memory card has been programmed for several optional settings that are available for these AccuVote ballot counting devices. In the column to the right of the tape is the notation “N/N.” The first “N” signifies that the optional setting that appears to the left of the corresponding notation is turned off. The second “N” signifies that a reporting feature specific to the corresponding option is also turned off. A “Y” signifies the feature is turned on.

```
RETURN / PRINT OVERRIDE:  
OVERVOTED RACES      Y/N
```

The “Overvoted Races” option is set so that a ballot the device reads as overvoted is rejected by the machine and returned to the voter. The second “N” indicates that the instruction to print a report on overrides of rejecting an overvoted ballot is turned off. Because New Hampshire will hand count all ballots read by the device as overvoted in any race or question, there are no instances where an election official may use the override feature to allow the device to “override” the device’s initial rejection of the ballot.

```
BLANK VOTED RACES    N/N
```

The “Blank Voted Races” option is set so that a ballot where the voter has left one or more races blank (the voter has not marked any oval for the race or question) is not rejected by the machine and is not returned to the voter. The second “N” indicates that the instruction to print a report on overrides of rejecting a ballot with a blank race is turned off. Because New Hampshire does not have the device reject a ballot with a blank race, there are no instances where an election official uses the override feature to allow the device to “override” the device’s initial rejection of the ballot. In New Hampshire, a ballot with a race blank is counted, with any blank race resulting in no vote for any candidate in just that race. For example, in a “vote for not more than 1” race if the voter does not mark any oval for that race, one blank on this ballot would be included in the reported number of undervotes for that race.

UNDERVOTED RACES N/N

The “Undervoted Races” option is similar to blank voted races but applies only where the voter is instructed to “vote for not more than” some number greater than 1. For example in a “vote for not more than 4” race, there are four seats to be filled by the election and each voter has an opportunity to vote for up to four different candidates. Many voters, however, will choose to vote for less than four. If a voter strongly favors a single candidate, voting for only that candidate is believed to improve the chances of that candidate being among the four candidates who receive the greatest number of votes. This is termed “bullet voting.” https://en.wikipedia.org/wiki/Bullet_voting (Last visited 8/4/2022). Other voters may know only one or two of the candidates, choosing to vote only for those candidates.

The first “N” reports the ballot counting device is set not to reject a ballot and return it to the voter when a “vote for not more than some number greater than 1” race has an undervote.

The second “N” indicates that the instruction to print a report on overrides of rejecting a ballot with an undervoted race is turned off. Because New Hampshire does not have the device reject a ballot with an undervoted race, there are no instances where an election official uses the override feature to allow the device to “override” the device’s initial rejection of the ballot. In New Hampshire, a ballot with an undervoted race is counted. For example, in a “vote for not more than 4” race if the voter marks one oval and leaves all other ovals blank, that one candidate receives one vote and three undervotes for this race would be included in the reported number of undervotes for that race.

ALL RACES BLANK N/N

The “All Races Blank” relates to a ballot where no oval on the ballot has been filled in. This occurs most often when a voter does not follow the printed instructions on the ballot and posted in the voting booth. A few voters circle the name of their chosen candidate or the yes or no to show their vote on a question. Other voters make marks, other than filling in an oval, to show their choice. Even more rarely, a voter chooses to cast a blank ballot with no races or questions marked in any manner.

The first “N” indicates that the ballot counting device is set to not reject a ballot with all races blank and return it to the voter. The ballot is processed. For the majority of towns that use a ballot diverter in the base of the device, a ballot with all races blank is diverted into the separate bin that also receives ballots with a write-in oval marked. Election officials review these ballots

to count the write-in votes and to count the votes of a voter who indicated their choice by circling the candidates name or otherwise marking their vote in a manner that did not mark inside any oval. Some towns have had the diverter removed from their device base and choose instead to examine every ballot to identify and count the votes from write-ins and where the voter has circled their choices or made other marks outside the oval to show their choice.

The second “N” indicates that the instruction to print a report on overrides of rejecting a ballot with all races blank is turned off. Because New Hampshire does not have the device reject a ballot with all races blank, there are no instances where an election official uses the override feature to allow the device to “override” the device’s initial rejection of the ballot.

STR PARTY OVERVOTES N/N

This feature is not currently used in New Hampshire. The “STR Party Overvotes” option relates to voting systems that have a single oval for each political party that allows a voter to vote for all candidates from that party by filling in that single oval. New Hampshire law no longer allows straight party voting, so this feature is not used.

MULTI-PARTY VOTES N/N

This feature is not currently used in New Hampshire. The “Multi-party Votes” option relates to open primary elections where more than one party is listed on the same ballot and the voting system can be set to reject selections which are for more than one party’s candidates. New Hampshire does not have open primary elections.

DUPLICATE VOTES N/N

This feature is not currently used in New Hampshire. A “Duplicate Vote” occurs when two or more votes have been marked on a ballot for a cross-endorsed candidate whose name appears on the ballot more than once in a race. In New Hampshire, if a candidate is nominated by his or her own political party and that candidate wins the nomination of the other party by write-in votes, for that office the candidate’s name appears in both party columns on the ballot. In New Hampshire if a voter marks the oval beside the candidate’s name in both ovals, the device counts the ballot as one vote for that candidate.

INVALID PREF. VOTE N/N

The “Invalid Pref. Vote” option is not applicable to New Hampshire elections. This option is not used in New Hampshire.

```
=== SORT SETTINGS ===  
SORT BALLOTS WITH:  
ALL RACES BLANK  
WRITE-INS
```

The “Sort Setting” indicates the device has been programmed to sort ballots where all races are blank (no oval filled in anywhere on the ballot) and ballots with any write-in oval completed into a separate bin in the ballot counting device base. Some towns take advantage of the sorting done

by the AccuVote ballot counting device to simplify the counting of write in votes and to verify ballots read as blank do not have a voter's choice shown with circled names or other marks. Other towns examine every ballot to identify and count the write in votes and votes marked by means other than filling in an oval.

=== TALLY SETTINGS == =
STR PARTY OPTION:
EXCLUSIVE

This feature is not currently used in New Hampshire. New Hampshire no longer allows straight party voting where a single oval on the ballot allows a voter to vote for all candidates from the designated political party. The "Exclusive" setting is the default for this option, but as there is no straight party contest in this election data, this option setting is moot. The setting information is printed on the paper tape regardless.

WRITE IN OPTION:
COMBINED

The "Write In Option" of "Combined" means the device is programmed to combine the number of write-in votes detected with the number of candidate selections detected to determine that the combined total does not exceed the maximum number of selections allowed for a contest. A ballot where the voter marks an oval for a candidate printed on the ballot, but also writes that same candidate in and fills in the write-in oval will be read as an overvote and returned to the voter. When hand counted, that ballot must be counted as one vote for the marked candidate.

MESSAGE DELAY **10**

The "Message Delay" lists the number of seconds that a message is displayed on the LCD display. The messages are mostly related to why the device is rejecting and returning a ballot. As described above, most options that have the device reject and return a ballot to the voter are not used in New Hampshire.

RESET COUNT **1**

The "Reset Count" reports the number of times the memory card has been reset. The initial value of this count is "1". In the case of Machine ID #1, its tape shows the memory card has not been reset. A reset would clear any data on the card accumulated from ballot counting. While rarely used, a reset would allow use of the card to start over, to run all cast ballots through the device. For example were ballots erroneously fed through the device more than one time, a reset would allow starting over feeding all ballots through the device.

PRECINCT CHECK: **64110**

The "Precinct Check" reports an internal checksum on the precinct data that verifies that the structural information on the memory card has not changed. This includes any information that is used to properly process ballots and maintain the counters. It is not possible to process ballots if a precinct data error has been detected. The checksum is calculated at two different points in

time and the results are compared to verify that the structural information on the memory card has not changed.

COUNTER CHECK: 3156

The “Counter Check” reports an internal checksum on the count data that verifies that the counters have not been modified except in the normal processing of ballots. It is not possible to process ballots if a count data error has been detected.

```
*****  
PRECINCT 3  
  
TEST GENERAL ELECTION  
*****
```

The entry on the report identifies the town or city using the memory card/ballot counting device. The “Precinct” number is assigned by the vendor, LHS, who programs the memory cards. All cards for a town have the same “Precinct” number. This is a different number than the “Precinct” number at the top of the long tape report.

```
BALLOTS CAST  
CARD QUANTITY  
10003 98
```

The “Ballots Cast” report shows the Ballot Card ID Numbers (a unique number for each ballot layout) of the ballots to be counted by the device. The quantity is the number of ballots counted by the device. This is a standard report that is part of the USVT report type.

In this election, there was only one ballot layout (ID 10003) used. For Machine ID 1, for the July 12, 2022 test ballot, the device counted 98 ballots that matched the ballot layout for that card.

For this test a ballot was inserted into the device 100 times, however, two instances were a ballot with an overvoted race which the device properly rejected. Therefore the device counted only 98 ballots.

At a primary, the long results tape report will report the quantity of ballots counted by the device by Political Party Primary and provide a total. The example below is from an unrelated primary election, all other examples shown are from the test election described above.

BALLOTS CAST BY PRECINCT	
PRECINCT 92	
CARD	QUANTITY
10001 DEM	323
10002 REP	598
TOTAL	921

In the example primary election shown above, there were two ballot layouts used: ID 10001 for the Democratic Party Primary and 10002 for the Republican Party Primary. The device counted 323 Democratic Party Primary ballots and 598 Republican Party Primary ballots that matched the ballot layout for the respective card numbers. The tape reports that the device counted a total of 921 ballots. Reconciliation must be done separately for each party's primary using the total for each party.

In rare circumstances a voter will mark and attempt to cast a ballot that is printed for a different polling place. This can occur if ballots received by a city for one ward are inadvertently used at a different ward. This can occur if the clerk does not verify that all boxes of ballots received prior to the election contain the correct ballots for that town/city ward. It can also occur if two voters from different towns/wards are together when marking their absentee ballots and mix up the ballots, sending them to the wrong towns.

Absentee voters with a disability may have the assistance of another person when marking their ballot. Otherwise absentee voters ideally exercise their right to a secret ballot and mark their ballot in private. Nonetheless, rare instances of a ballot printed for a different polling place being cast at the voter's polling place have been reported.

If a ballot for a different town or ward is inserted into the ballot counting device, it will be rejected as the timing marks printed on the ballot will not match the ballot layout for the town/ward.

If the ballot was mistakenly issued to a voter entitled to vote in this polling place and the voter is still present, the ballot must be spoiled and a correct ballot issued to the voter to mark and cast.

If the voter who cast the ballot is unknown or not present (absentee voter), the ballot must be set aside for hand counting the votes on the ballot that are common to both polling places. Similarly, in a hand count polling place, if a wrong ballot is discovered in the hand count process, the ballot nonetheless is counted for the races/questions in which the voter was entitled to vote.

For example all ballots in the state will have the race for Governor. In two out of three election cycles all ballots in the state will have the race for United States Senator. Examine the other races on the ballot, in many cases the ballot marked by the voter and the ballot that should have been issued to and marked by the voter will have the same races with the same candidates. Count the votes marked on the ballot where the races and candidates on the ballots match.

For questions, except for local questions that are specific to one town or city, questions are the same statewide. Count the vote marked on the ballot for all questions that appear on the ballot the voter should have received and marked.

Do not count the vote(s) marked on the ballot if the vote(s) is for a candidate/race or question not listed on the ballot the voter should have received. For those races the marked (wrong) ballot must be counted as an undervote.

The process used to set the wrong ballot for the polling place aside and hand count it must protect the voter's right to a secret ballot.

BALLOTS CAST SUMMARY	
BLANK VOTE	0
OVERVOTED	0
UNDERVOTED	74
WRITE-IN	8

The "Ballots Cast Summary" is printed before the detail for each race and is repeated at the bottom of the long tape report. It is a summary of data on all ballots counted and does not provide data specific to any one race or question.

"Blank Vote" reports the number of ballots counted that were blank for all races. For the July 12, 2022 test general election Machine ID 1 reported having 0 "blank vote" ballots. As noted above, a "blank vote" means the device read all ovals on the ballot as blank. This may be a completely blank ballot where the voter did not mark any vote or it may be a ballot where the voter left the ovals blank, but indicated his or her vote by circling the chosen candidates or otherwise marking choices.

OVERVOTES	0
------------------	----------

"Overvoted" reports the number of ballots where in at least one race the voter marked more choices than permitted. New Hampshire's devices are now programmed to return a ballot that is read as having any overvote to the voter, to have the voter insert the ballot in the hand count ballots slot on the side of the device base. The overvotes report should always be 0. The device will not count any ballot where any race or question on that ballot is read as overvoted. These ballots must be hand counted for every race and question. Contact LHS, the Attorney General's Office and the Secretary of State if a report has a value greater than 0 for "overvotes."

UNDERVOTED	74
-------------------	-----------

"Undervoted" reports the number of ballots counted where the voter marked less than all the choices permitted. For Machine ID 1, the report indicates that on 74 of the 98 ballots the device counted, there was at least one race where the voter did not mark an oval for all available choices. This is a report by ballot, not by race. For example, if a voter marked ovals for all federal and state offices, but left the ovals blank for all 6 county offices on a ballot that would add 1 ballot to the total "Undervoted" ballots. In a case where the voter undervoted a particular race (i.e. Voted for only 3 candidates in a "not more than 4" race), the 3 votes for the chosen candidates would still be counted.

“Write-In” reports the number of ballots counted where the voter marked at least one oval indicating a write-in vote. For Machine ID 1, the report indicates that on 8 of the 98 ballots the device counted, at least one write-in oval was marked. If a voter writes in a name on the write-in line for an office but does not fill in the oval beside the write-in line, the device does not count that as a write-in, it is counted as an undervote (because the oval is blank). During election day hand counting of ballots with a write-in or at a hand recount, a change in the vote total for a candidate occurs when a ballot is counted that has a write-in but no write-in oval filled in. That person whose name is written in is credited with a vote and the total number of undervotes for that race is reduced by 1.

Results for Each Office on the Ballot

These results are for the ballots counted by this device only. The results do not include the results from ballots that were counted by a different device nor the results of ballots that were hand counted.

At polling places where more than one device is in use, the physical position of the ballot counting device along the path a voter takes when traveling from the voting booth to exit the rail, the presence or absence of a line of other voters at other devices, and other factors influence which device a voter uses to cast his or her ballot.

Absentee ballots are cast into a ballot counting device during the course of Election Day and/or after in-person voting ends but before any ballots are counted. Which device or devices local officials cast absentee ballots into will result in differences in the total ballots counted by one device compared to another device. At elections where absentee voters in the aggregate choose a candidate more often than do the in-person voters in the aggregate and absentee ballots are more often cast into one or two of the devices, it is expected that the proportional vote totals for the candidates will vary from one device to another.

Stated another way, when more than one ballot counting device is used at a polling place, it is typical that the distribution of ballots between the devices is not random. Various factors influence which device a ballot is cast into. Therefore, it is not expected that the proportion of votes a candidate receives from the ballots cast into one device will be identical to or even similar to the proportion of votes that same candidate receives from different ballots cast into a different device.

```

.....
GOVERNOR
RACE # 10
# RUNNING          3
# TO VOTE FOR      1

OVERVOTES          0
UNDERVOTES         40
JOSIAH B. ZETT     34
HANNAH DUSTIN     14
JOHN SPENCER       10
# WRITE-IN         0
*****

```

“Race #” is a number assigned when LHS programs the memory card. The assigned Race # is

not used in determining the vote totals and outcomes at an election. In New Hampshire the Moderator combines the results from a single ballot counting device with the results from other devices used at a polling place, if any, using the data on the printed results tape and the results of hand counted ballots. By order of the Ballot Law Commission, the capability of the device to communicate with other devices or to a central canvassing or vote aggregation system are physically disabled. The modem originally installed in each device was physically removed and the wires to the telephone jack plugs are cut. See: Ballot Law Commission, April 9, 2010 Order. RSA 656:42, X prohibits a ballot counting device from having access to or being connected to the Internet.

“# Running” reports the number of candidates printed on each ballot for the listed office and programmed to be counted by the device. In this case, a voter has one vote for Governor. For this test election there were 3 choices:

- Josiah Bartlett;
- Hannah Dustin; and
- John Spencer.

“# To Vote For” reports the permitted number of votes. Governor is a “vote for not more than 1” race, therefore a voter may only make one choice.

“Overvotes” reports the number of overvotes for Governor that were counted. The result is “0.” The results for overvotes should always be “0” because the device is programmed to return every ballot with any race or question being read as overvoted to the voter. If the result for “overvotes” is greater than 0 call LHS, the Attorney General’s Office and the Secretary of State. The voter inserts the ballot in the slot for hand count ballots on the side of the base. The moderator has the ballot hand counted after the polls close to voting. Every race and question on the ballot must be hand counted.

“Undervotes” reports the number of ballots where the voter marked less than the permitted number of votes for this race. For this test election 40 ballots had no ovals marked for Governor. In other words, 40 of the 98 voters casting ballots in this test election did not vote for anyone for Governor.

Generally, it is uncommon for the percentage of undervotes for a Governor’s race to be greater than 3% of the total ballots cast. A moderator finding a result like this test election, where the undervote is approximately 41% of ballots cast for the office of Governor, should verify the accuracy of the results before declaring the outcome.

The % of undervotes typically is higher further down the ballot and in races where the instruction is to vote for no more than some number greater than 1. Spotting and verifying the count for races or questions where the undervote is significantly greater than expected is one tool moderators should use to ensure an accurate count.

“Josiah Bartlett” reports the number of votes for candidate Bartlett. For Machine ID 1 Josiah Bartlett received 34 votes.

“Hannah Dustin” reports the number of votes for candidate Dustin. For Machine ID 1 Hannah

Dustin received 14 votes.

“John Spencer” reports the number of votes for candidate Spencer. For Machine ID 1 John Spencer received 10 votes.

“Write-in” reports the number of ballots with a write-in oval filled in for this race. For Machine ID 0 ballots with the write-in oval filled in.

The Moderator examines the write-in ballots to determine the name of the person who received each write-in vote.

If the write-in vote is for one of the candidates printed on the ballot, and both the oval by the printed name and the oval by the write-in line is filled in, the device will read this as an overvote and return the ballot for hand counting. At the hand count, the Moderator counts the ballot as one vote for that candidate and that vote is added to the total votes reported for that candidate. In such a case, the write-in is not separately reported as a write-in vote.

All other write-in votes are reported separately. If a person receives more than one write-in vote, all are added together and the total votes received by that person is reported.

State Representative Hillsborough District 34

```
*****  
ST.REP.HILLSBOROUGH 34  
RACE # 1150  
# RUNNING          8  
# TO VOTE FOR      3  
  
OVERVOTES          0  
UNDERVOTES         134  
OBADIAH CARRIGAN  18  
MARY BAKER EDDY   12  
SAMUEL BELL        12  
SAMUEL LIVERMORE  20  
ELIJAH MILLER     26  
ISAAC HILL         26  
ABIGAIL BARTLETT  20  
JACOB FREESE      24  
# WRITE-IN         2
```

The State Representative District 34 race was assigned Race # 1150.

“# Running” reports that there were 8 candidates printed on the ballot and programmed to be counted for this race.

“# to Vote For” reports that this was a “vote for not more than 3” race. There were three State Representative Seats for District 34 to be filled by the election.

“Overvotes” reports 0 overvotes for this race where counted. This is the only valid value that can be reported because the device is programmed to return any ballot with any overvoted race or question to be hand counted. The number of overvotes for a race must be determined as part

of the hand counting.

“Undervotes” reports that 134 opportunities to vote were not used. This means that a voter marked less than 3 choices.

- If the voter marked 2 choices, the “undervotes” total for this race was increased by 1 by that ballot.
- If the voter marked 1 choice, the “undervotes” total for this race was increased by 2 by that ballot.
- If the voter did not mark any choice, the “undervotes” total for this race was increased by 3 by that ballot.
- If the voter marked 5 or more choices, the ballot was read as an overvote, the ballot was not counted by the device and was returned to the voter to be hand counted.

In a “vote for not more than 3” race, the potential number of blanks is the total number of ballots counted multiplied by 3.

The report entry for Machine ID 1:

“Obadiah Carrigan” reports that candidate Obadiah Carrigan received 18 votes;

“Mary Baker Eddy” reports that candidate Mary Baker Eddy received 12 votes;

“Samuel Bell” report that candidate Samuel Bell received 12 votes;

“Samuel Livermore” reports that candidate Samuel Livermore received 20 votes;

“Elijah Miller” reports that candidate Elijah Miller received 26 votes;

“Isaac Hill” reports that candidate Isaac Hill received 26 votes;

“Abigail Bartlett” reports that candidate Abigail Bartlett received 20 votes;

“Jacob Freese” reports that candidate Jacob Freese received 24 votes;

“# Write-In” reports that for this race there were 2 ovals filled in indicating a write-in vote.

The bottom of the results tape repeats the “Ballots Cast By Precinct” data and the “Ballots Cast Summary” which are also shown near the top of the tape and are explained above.

```
BALLOTS CAST BY PRECINCT
PRECINCT 3
CARD          QUANTITY
10003         98
```

```
BALLOTS CAST SUMMARY
BLANK VOTE      0
OVERVOTED      0
UNDERVOTED     74
WRITE-IN        8
```


At a Primary, a similar report is printed which will show the same data for each party's primary. It will list the data separately for the Democratic Primary and separately for the Republican Primary.

At a primary, this report will report the quantity of ballots counted by the device by Political Party Primary and provide a total. The example below is from an unrelated primary election, all other examples shown are from the test election described above.

```

BALLOTS CAST BY PRECINCT
PRECINCT 92
CARD          QUANTITY
10001  DEM    323
10002  REP    598
TOTAL                921
  
```

In the example primary election shown above, there were two ballot layouts used: ID 10001 for the Democratic Party Primary and 10002 for the Republican Party Primary. The device counted 323 Democratic Party Primary ballots and 598 Republican Party Primary ballots that matched the ballot layout for the respective card numbers. The tape reports that the device counted a total of 921 ballots. Reconciliation must be done separately for each party's primary using the total for each party.

When a device counts 98 ballots, for a "vote for not more than 1" race, the total votes received by all candidates, plus the write-in ballots reported, plus the undervotes reported is expected to equal the number of ballots counted by Machine ID 1. From the example above for Governor:

Undervotes	40
Josiah Bartlett	34
Hannah Dustin	14
John Spencer	10
<u>Write-in</u>	<u>00</u>
Total	98

When a device counts 98 ballots for a "vote for not more than 3" race, the total votes received by all candidates, plus the write-in ballots reported, plus the undervotes reported is expected to equal the number of ballots counted by Machine ID 1 multiplied by 3 (the number of votes permitted in the race).

From the example above for State Representative Hillsborough 34:
 $98 * 3 = 294$

Undervotes	134
Obadiah Carrigan	18
Mary Baker Eddy	12
Samuel Bell	12
Samuel Livermore	20
Elijah Miller	26
Isaac Hill	26

Abigail Bartlett	20
Jacob Freese	24
Write-in	2
<hr/> Total	294

Certification

WE, THE UNDERSIGNED,
DO HEREBY CERTIFY THE
ELECTION WAS CONDUCTED
IN ACCORDANCE WITH THE
LAWS OF THE STATE.

**** SIGNATURES ****

.....
.....
.....
.....
.....
.....

The official results tape from each device is signed by election officials. Best practice is to have the Moderator or designee and Clerk sign to certify that tape. State statute is not explicit. The Moderator and Clerk are required by statute to certify the checklist used at the election and this is a similar document. The tape to be preserved as the town/city ward official record and the tape to be sent to the Secretary of State with the Return of Votes must both be signed. In many communities a copies of the tapes (zero tape and results tape) are displayed at the polling place when the election results are announced. It is important that notice be given that the tape results are only partial results. The results from hand counted ballots must be added to the tape results to obtain the election results. Best Practice is to post the tape along with the hand count results, showing the final results for each office and question.

Print at least 4 copies of the long results tape.

- 1 – to be kept by the clerk as a public record;
- 1 – to be kept by the moderator, to use if questions arise regarding the results;
- 1 – to send to the Secretary of State with the Return of Votes; and
- 1- to post as part of the moderator’s public report of the results, being careful to include in the posting the results from hand counting ballots. Post only the complete results. Posting the tape before hand counting and reconciliation is done risks confusion, as the tape alone does not report the complete results. When the polling place is closed up after ballots are boxed and sealed, the clerk may want to take the publicly posted results for re-posting at the clerk’s office.



Electronic Ballot Counting Device Procedures

For Testing and Security Seals (RSA656:42)

8/5/2022

Seal Types:

- Wire Wind-Up Security Seal
- Tamper Evident Labels (Tape Seals)

Seal Locations:

- One wire seal must be fully tightened attaching the 2 zippers on the closed canvas cover storing the counting device.
- One wire seal must be fully tightened on the metal bar in front of the memory card slot.
- Tamper Evident Label seals must be placed in the following three locations:
 1. One seal affixed on the seam connecting the two hard shell covers on the front of the counting device.
 2. One seal affixed on the seam connecting the two hard shell covers on the rear of the counting device.
 3. One seal affixed over the 3 communications ports in the rear of the counting device.

SOS Activity Log and One Access Log:

- Canvas Bag SOS Activity Log
- Counting Device SOS Activity Log
- Memory Card SOS Activity Log
- SOS Access Log
 - A list of all individuals who have access to the safe where the memory cards are stored.
 - A list of all individuals who have access to the secure area where the counting devices are stored.

Procedures:

- The city or town clerk shall update a SOS Activity Log supplied by the Secretary of State to keep a record each time a seal is broken, a new one installed and the reason for which the seal was broken or installed. The SOS Activity Logs shall be kept in the outside pocket of the canvas bag which contains the counting device.
- No person shall break or install a seal without the presence of 2 witnesses (The clerk or deputy plus 2 additional people as witnesses, three in total). Upon breaking or installing

such seal, the person responsible shall update the appropriate SOS Activity Log, **sign in the spot for the clerk's signature**, obtain the signatures of two witnesses, record the reason for breaking or installing such seal, properly record the seal number in the SOS Activity Log, and replace the SOS Activity Log in the front pocket of the canvas bag for the counting device.

- NH SOS Security Upgrade Form confirms: AccuVote-OS Precinct Count firmware chip has been upgraded to the 1.96.13 firmware chip
- Whether the counting device uses visible light read heads
- Disconnection of modem, if present
- Cutting of the two telephone cables
- Disconnection of the communication port ribbon cable
- Removal of all pins from the external communication port
- The canvas bag of each counting device must have a tag that indicates the serial number of the counting device inside.
- The counting device, the Security Upgrade Form, SOS Access Log, SOS Activity Log, and test results shall be subject to review by the moderator, Attorney General or Secretary of State at any time.

Memory Card (Installing):

Whenever the town or city clerk receives a memory card from the memory card programmer, the clerk shall record on the SOS Activity Log the:

- Breaking of the canvas bag seal
- Breaking of the metal bar seal in front of the memory card slot
- The memory card number on the back of the memory card
- Insertion of the memory card into the memory card slot
- Installation of a new seal on the metal bar in front of the memory card slot
- Installation of a new seal on the canvas bag

The clerk shall store any memory card not inserted into a counting device in a safe **(lockable file cabinet or similar secure storage)** and record the names of individuals that have access to such safe on the SOS Activity Access Log

Memory Card (Removing):

Whenever the town or city clerk removes the memory card from the counting device, the clerk shall record on the SOS Activity Log the:

- Breaking of the canvas bag seal
- Breaking of the metal bar seal in front of the memory card slot
- Removal of the memory card
- Installation of a new seal on the metal bar in front of the memory card slot

- Installation of a new seal on the canvas bag
- Immediately return the memory card to the memory card programmer

Maintenance, Storage & Replacement of Counting Devices and Memory Cards:

- The vendor shall follow the SOS Activity Log seal procedure when performing routine maintenance on the counting device.
- Confirm that the canvas bag of each counting device has a tag that indicates the serial number of the counting device inside.
- While in secure storage, the metal bar in front of the memory card slot and the canvas bag shall be sealed at all times.
- If a counting device is replaced, the clerk shall retain and store the SOS Activity Log from that device.
- If a counting device or memory card is replaced by the vendor, the clerk shall first test the replacement counting device or memory card using the SOS testing instructions and affix the appropriate seals.
- The clerk shall maintain an up-to-date SOS Access Log for the secure storage area and record the names of individuals that have access to the secure storage area.

Back-up Counting Devices:

- Seals shall be affixed in the appropriate locations on all back-up counting devices. All cases shall contain the SOS Activity Log **for the device in that case.**

Marking a Test Deck for a Ballot Counting Device

1. The Secretary of State will send 50 test ballots for each political party primary and 50 test ballots for each general election. Use **all** of them for testing. Ensure marks made on the test deck satisfy the requirements of RSA 656:42, VIII (e).
2. Fold 15 of the test ballots for each political party as if these were absentee ballots returned by the voter folded into an envelope. For the general election fold 15 test ballots in the same manner. These test ballots will not have the score mark that will be on all printed absentee ballots. Ensure the folds **do not** cross through any vote target (oval).
3. If the AVS system one4all tablet has been received when the ballot counting device test is conducted, use three test ballots for each political party at a primary and 3 ballots at a general marked by the one4all system in your ballot counting device test. Marking these test ballots with the one4all will test your AVS tablet and printer. Make sure you follow the full AVS instructions (found in *ElectioNet* > Help > Instructions) for set up. It may be helpful to mark the AVS ballots as test ballots 48, 49, and 50. If the tablet has not been received hand mark test ballots 48, 49, and 50. Save 3 different ballots (not from the 50 sent for testing), using red ink mark each with "TEST," in the header and away

from the timing marks (black rectangles printed near the edges of the ballot) to use later to test the AVS system.

4. Write "TEST" on all test ballots in the header and away from the timing marks (black rectangles printed at the edges of the ballot) using red ink.
5. RSA 656:42, VIII (e) requires that the clerk mark the test ballots in such a way as to demonstrate:
 - a. A vote for each candidate on at least one test ballot. This means that for each candidate there is at least one test ballot with a vote for that candidate where the office is not overvoted on that ballot.
 - b. Votes for less than the number of candidates that may be voted for an office. This means if the office is a "vote for not more than 1" leave all ovals for that office blank. If the office is a "vote not more than 3," use one test ballot with only 1 candidate selected and a second test ballot with only 2 candidates selected. Follow this pattern for all offices.
 - c. Votes for more than the number of candidates that may be voted for an office. Best practice is to mark two test ballots with overvotes. Choose one "vote for no more than 1" statewide office. Mark just that race, marking two candidates printed on the ballot. Choose one "vote for no more than 1" county office and mark one candidate printed on the ballot and one write in oval.
 - d. Votes for write-ins, this means that on several ballots that are not overvoted, fill in the oval for a write-in vote. For example in a "vote for no more than 1" office, mark only the write-in oval.
 - e. Leave at least one test ballot completely blank, a ballot on which there are no votes. Do not use more than one completely blank test ballot. This ballot should be counted as an undervote, with the number of undervotes equaling the number in the "vote for not more than #" instruction.
 - f. The clerk shall mark as many as possible of the combinations of choices that a voter may indicate on the ballot.
6. Starting in 2022 the ballot counting device will be set to reject / return to the voter any ballot which the device reads as having an overvoted office or question. Every test ballot that is marked with more candidates than the number to be voted for any office should be rejected by the device. The device will not count any office or question on a ballot that is rejected. Still insert the ballot into the device once in each of the four orientations, to ensure the overvote rejection occurs regardless of how the ballot is inserted. The device uses a different set of light bulbs and light sensors when the ballot is face up versus face down.
7. As each ballot must be inserted four times, once in each orientation, your results totals combining all votes and undervotes for a "vote for not more than 1" office will be 200 –

4 times the number of ballots that contain at least one overvote. If you mark only two ballots with overvotes, the combined results for each contest, including undervotes and write-ins with the oval filled in should be $200 - (4 * 2 = 8) = 192$. The results tape value for quantity should be 192 for the party that you are testing at a primary and for the one test deck at a general. The long results tape at a primary will also show each party's quantity added together to report the total ballots counted by the device. At a general election the tape will have just one quantity for all ballots counted by the device.

Run each of the test ballots through the counting device in the following orientations: Top first with side one face up, bottom first with side one face up, top first with side one face down, and bottom first with side one face down. Do this even for the overvoted ballots that will be rejected/returned. This demonstrates that the device rejects/returns overvoted ballots regardless of the orientation of the ballot when inserted into the device.

Ensure that for all offices the candidates printed on the ballot receive a different number of total votes, ideally with a difference of several votes.

While there is no evidence of such a hack ever occurring in New Hampshire, the test is in part intended to detect a hack that has the device count a vote marked on the ballot for one candidate for an office as a vote for the opponent. Such a hack is theorized to switch only one of every 10 to 20 votes, so the hack is not obvious in the outcome. Therefore, it is important, except for the overvoted and blank test ballots described above, that test ballots have a candidate choice marked for all offices and the "yes" or "no" for questions. With each ballot being run through the device 4 times and the expected total votes (including write-ins and undervotes) for a "vote for no more than 1" office being 192, most candidates will have a large enough number of votes that the test would detect a vote switching hack that is applied to only every 10th or 20th vote.

8. Set the two ballots marked with overvotes aside. Hand count the votes marked on the remaining test ballots before they are run through the electronic ballot counting device and multiply the results by 4 to account for the 4 different orientations (the 4 times each ballot will be counted). By doing the hand count first, it limits allegations that the hand count was made to match the device count. In the hand count you must account for, with each office and question, the number of test ballots with an overvote or an undervote. Do not include the two overvoted test ballots in this hand count because they will not be counted by the ballot counting device. This test compares just those ballots counted by the device to a hand count of just those ballots.

On election night when hand counting actual cast ballots that the device did not count, a change to law requires that the number of overvotes and undervotes for each office and question be determined and reported on the Return of Votes sent to the Secretary of State's Office. Following this same procedure during the test is necessary to determine if the votes for each candidate plus write-ins plus overvotes (which should be 0 on the results tape) plus undervotes add up to the expected number of votes in each contest. If two ballots are not counted because they were rejected as containing overvotes, the expected total is 192. If the 2 ballots, 8 overvotes or 8 undervotes for contests that are not marked, are added from the hand count, the expected total is 200. This step of ensuring the results for an office make sense in light of the ballots cast and the voters

marked as voting has long been recommended as part of election night reconciliation.

9. **Print a long results tape.** The law now requires that the clerk retain a long results tape as a public record and *send a copy of the long tape to the Secretary of State on election night with the Return of Votes*. Check the test tape results against the tally from the test hand count. If the results are identical, the test is successful.
10. If the electronic ballot counting device's report for this test does not match the test hand count, check to ensure the hand count did not include the overvoted ballots that the device did not count. If the two counts still do not match, the clerk shall notify the moderator, who shall order that the electronic ballot counting device not be used at the election.
11. For the primary, this test must be completed no later than Wednesday September 7, 2022. For the general, this test must be completed no later than Wednesday November 2, 2022. Any computer problems, including tabulation errors and mechanical failures must be reported to the Secretary of State (603) 271-3242 and to LHS immediately. Results should be preserved by the clerk as described below in No. 13.
12. If the AVS one4all tablet is received by the clerk after the ballot counting device test, the AVS system must be tested by the clerk using the extra election day ballots marked by the clerk in red ink as "test" ballots. Make sure the printer fills in the ovals for the selected candidate. Slight misalignment is OK, but a substantial part of the oval must be filled in by the printer. If any problems with the one4all arise, first print the trouble shooting guide which likely will explain how to resolve the problem. The one4all is sensitive to the order of the set up steps, follow the instructions precisely. Notify the Elections Division Help Desk (603) 271-8241 immediately if the one4all fails this test.
13. The clerk shall document the pre-election test by preserving:
 - a) The test ballots;
 - b) The hand count of votes on the test ballots made by the clerk;
 - c) The results from the electronic ballot counting device that was tested.

These records should be put in the outer pocket of the device bag to ensure the records are available at all the polls for inspection by the Attorney General's Office polling place inspector.

14. The clerk shall test all electronic ballot counting devices and memory cards in the possession of the town or city.
15. Prior to placing the electronic ballot counting device or any memory card into service in an election, the moderator shall certify that there is evidence that pre-election testing was conducted on each electronic ballot counting device and each memory card, including the AVS, one4all tablet system, in the town or city clerk's possession, and that these devices and cards have passed the test.

The certification statement is part of the Moderator's Certificate on which the number of ballots received and verified to be correct for the polling place are certified.

Election Day - Moderator:

- Prior to placing the electronic ballot counting device or any memory card into service in an election, the moderator shall certify that there is evidence at the polling place that pre-election testing was conducted on each electronic ballot counting device and each memory card in the clerk's possession, and that these devices and cards have passed the test. **The certification is made on the Moderator's Certificate.**
- Upon receiving possession of a counting device on election day, the moderator shall verify all counting device seals have remained intact and shall verify that the seal numbers on the counting device match the seal numbers recorded on the appropriate SOS Activity Log. Any seals which may have been broken inadvertently must be properly investigated, and if appropriate, re-sealed, recorded and signed in the SOS Activity Log according to the correct procedure. **Notify the Attorney General's Office 1-866-868-3703 or (603) 271-3658. They will provide guidance on the affidavit(s) necessary to document the security of the device.**
- **Prior to printing the zero tape from an electronic ballot counting device, the moderator, in the presence of at least one witness, shall examine all compartments of the ballot collection box, including the primary ballot bin, the diverter (write in) ballot bin, and the side ballot bin (ballots to be hand counted) accessed via the door on the side of the device, to ensure that the ballot collection boxes do not contain any ballots.**
- At the opening of the polls, the moderator shall print the zero tape from the electronic ballot counting device, show the tape to the other election officers (who shall check and confirm the zero value) and, on request, to any members of the public present, and provide the zero tape to the clerk, who shall maintain it with other materials documenting the election. RSA 658:36.
- During election day, if the moderator notices that any seal on the counting device appears tampered with or broken, without an adequate record in the SOS Activity Log, the moderator shall refrain from using the counting device in that election and shall report the apparent tampering to the Attorney General, the Secretary of State, the town or city clerk, and the selectmen.
- **After the close of the polls, the moderator shall print the long report tape from the electronic ballot counting device, one tape to be provided to the clerk, and one tape that shall be sent to the Secretary of State with the Return of Votes.**

Ballot Counting Devices – No Internet Connection

The Ballot Law Commission ordered that all ballot counting devices be modified to remove the modem and disable the serial port. April 9, 2010 Ballot Law Commission Order. RSA 656:42 has been amended to make it a statutory requirement that the device be incapable of connecting to the internet. "No electronic ballot counting device shall have access to or be connected to the Internet." RSA 656:42, X.

XXVI. ELECTION DAY SIGNS & PROCEDURES

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**THE OFFICE
OF THE
TOWN CLERK
WILL BE
CLOSED ON
ELECTION
DAY**



VOTERS REGISTER HERE



VOTER CHECK- IN



VOTER CHECK- OUT



**NO
PHOTO
ID?
START
HERE**



**YOU MUST
ANNOUNCE
YOUR NAME
AND
ADDRESS TO
THE BALLOT
CLERK**

(NH RSA 659:13)



**YOU MUST
ANNOUNCE
YOUR NAME,
ADDRESS, AND
PARTY
AFFILIATION TO
THE BALLOT
CLERK**

**(NH RSA 659:13 &
NH RSA 659:14)**



**PREVIOUSLY
UNDECLARED VOTERS
WHO WISH TO RETURN TO
UNDECLARED, DEPOSIT
COMPLETED ELECTION
DAY PARTY AFFILIATION
CHANGE FORM HERE**

Voter ID # _____

**UNDECLARED VOTERS
ELECTION DAY PARTY AFFILIATION CHANGE FORM**

Name (Print) : _____

Address: _____

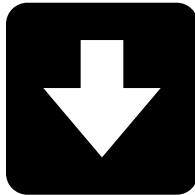
I hereby request that my political party registration be changed as follows:

FROM: Democrat [] or Republican []

TO: Undeclared []

Signed under the pains and penalties of perjury.

SIGNATURE: _____ **DATE:** _____



**IF YOU WISH
TO USE THE
ACCESSIBLE
VOTING
SYSTEM, ASK
AN ELECTION
OFFICIAL.**



DEPOSIT PRIVACY FOLDER HERE



**VERIFY YOUR
REGISTRATION
STATUS/PARTY
AFFILIATION
HERE**



**PLEASE SANITIZE
YOUR HANDS BEFORE
CHECKING IN.
RUB YOUR HANDS
UNTIL DRY BEFORE
PICKING UP A
BALLOT.
DO NOT TOUCH
BALLOT WITH WET
HANDS.**





Hand Count Bin
Side of the Device Base

**Hand Count All Offices
and Questions.**

**These ballots must be
fully hand counted.**

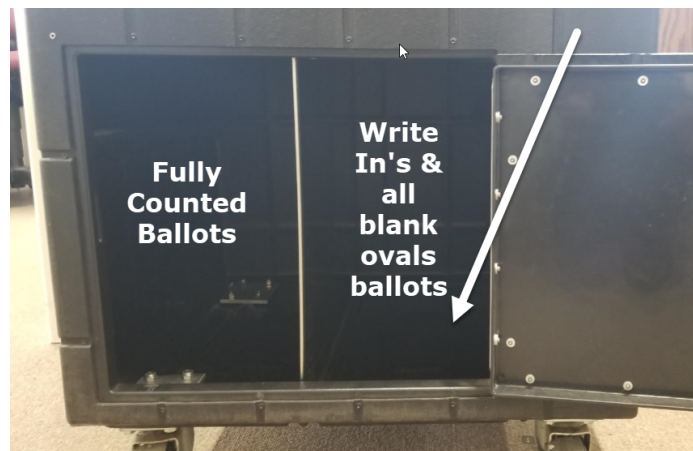
**These ballots were not
counted by the ballot
counting device.**



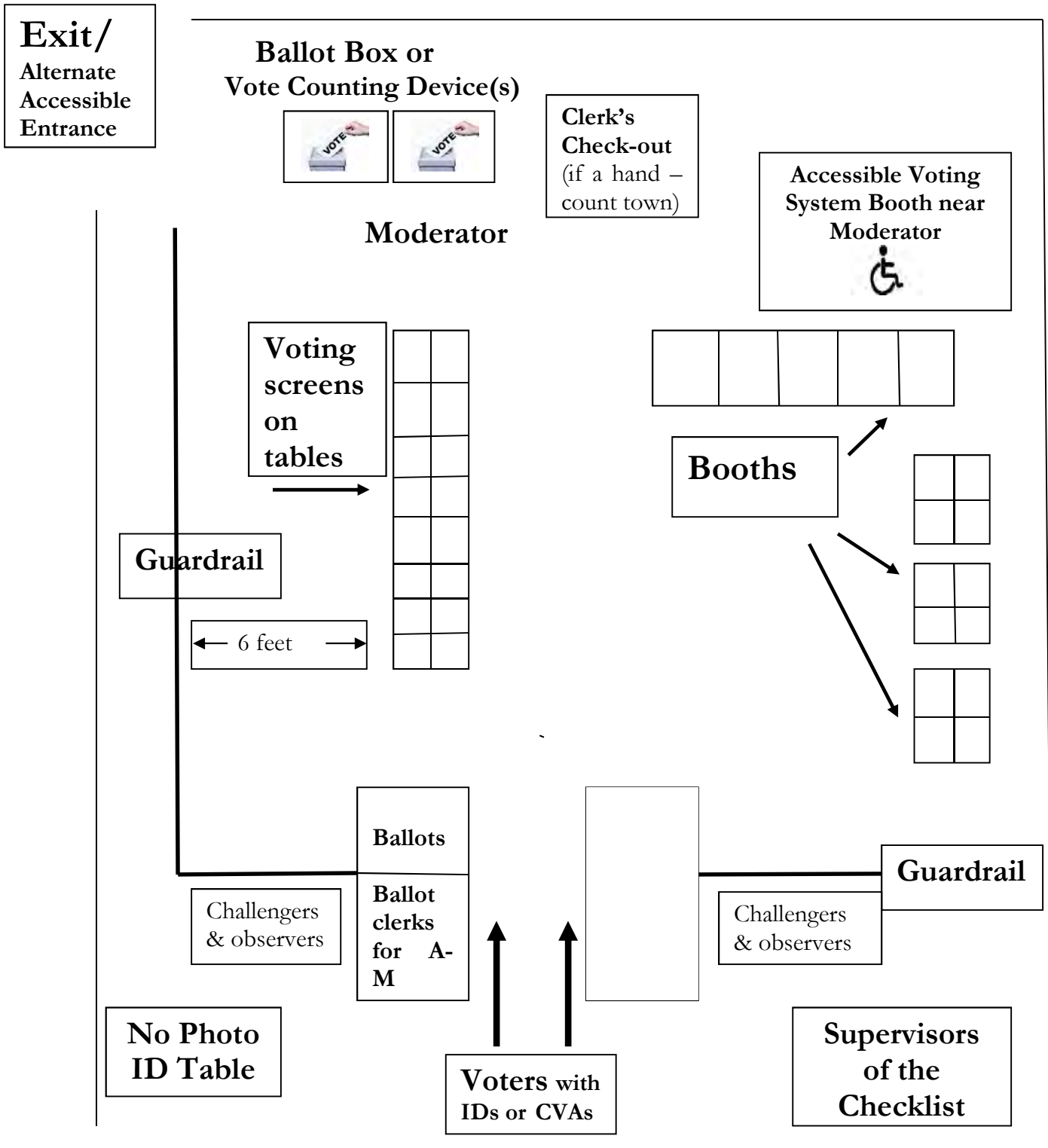
Write in Bin

Ballots with write in votes - The ballot counting device will count all properly marked votes. Only document the name of the candidate(s) who received a "write in" vote.

Segregate the ballots that contain all blank ovals and the voter circled or otherwise marked their choice. The moderator shall review these ballots and direct how each ballot will be counted.

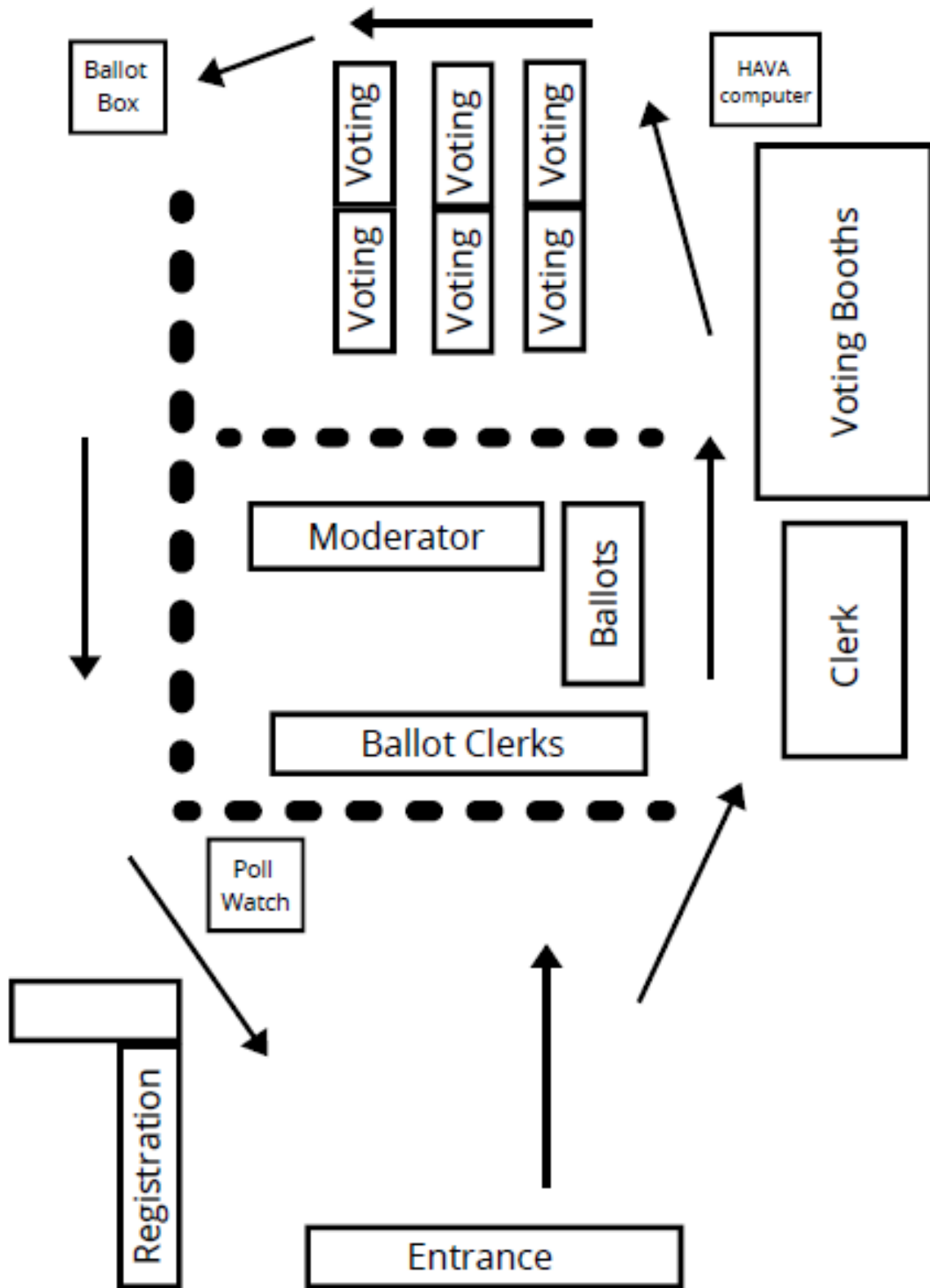


POLLING PLACE LAYOUT EXAMPLE



Must be 6 feet between guardrail and voting activities in all directions. Alternate entrance for persons with disabilities must be clearly signed, with clear path to check-in table. Challengers must be stationed within sight and sound of ballot clerks but outside guardrail.

Polling Place Layout Example #3



Polling Place Internal Layout Checklist

_____ Equipped with a United States flag.

_____ Furnished with all necessary forms, signs, supplies, equipment and seals (see list starting at page 351).

_____ Equipped with a guardrail constructed and placed so that only persons inside the rail can approach within 6 feet of any voting booth and the ballot box or ballot counting device.

_____ Has a designated voter registration area, with table(s) and chairs for supervisors of the checklist, located outside the guardrail.

_____ Has a designated check-in area, with table(s) and chairs for ballot clerks, located outside the guardrail (but with a nearby entrance to the area within the guardrail for voters who are issued ballots).

_____ Has a “No Photo ID table” outside the guardrail equipped with a camera, film, copy of the checklist, ballot clerk instructions, a copy of RSA 659:13 (the photo ID law), and copies of Challenged Voter Affidavits.

_____ Has an alternate entrance for persons with disabilities that is signed with a clear path to the check-in table.

_____ Has sufficient public space outside the guardrail to allow observation of the election.

_____ Has a station for challengers outside the rail, but within sight and sound of the ballot clerks. When ballot counting is occurring challengers must be able to see and hear hand-counting of ballots and to maintain a line of sight on any electronic counting device, while being positioned at least 4 feet from the ballots being counted. RSA 666:5-a; RSA 659:63.

_____ Arranged so that the voting booths and voting screens are in plain view of the election officers.

_____ Voting booths/screens are all inside the guardrail, and sufficient in number for the efficient conduct of the election Equipped with no less than one voting booth/screen for every 100 voters qualified to vote at the polling place at a presidential general election, one for every 125 voters at other state general elections, and for all other state elections, including the state primary election on for every 150 voters. For all city, town, school district, and village district elections, one for every 200 voters. Table top voting screens may be used to accommodate up to 50% of the total requirements for voting booths. RSA 658:9, V.)

_____ Has at least one voting booth specially designed to be easily accessible to persons with disabilities and the elderly.

_____ All booths are equipped with sufficient lighting/lamps and magnifying lenses (recommended).

_____ Has a designated area for the ballot box or ballot counting machine inside the guardrail that is in plain view of the election officers and to the public area outside the guardrail.

_____ Has a checkout station (hand count towns only) inside the guardrail and between the polling booths and ballot box.

_____ Has a designated area to exit from inside the guardrail after voting.

Seal On Boxes Containing Ballots & Absentee Materials



This Package Contains

NUMBER OF _____ CAST BALLOTS
NUMBER OF _____ CANCELLED BALLOTS
NUMBER OF _____ UNCAST BALLOTS

All absentee ballot applications and envelopes are enclosed in this ballot box – including all challenged and rejected absentee ballots still contained in their envelopes.
RSA 659:53, 657:15, 23, 26

BOX _____ OF _____.

Enclosed are the ballots from the state election held in the town of

(or, ward _____ in the city of _____ held on the _____ day of _____, 20____ required by the law to be preserved.

Moderator or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

Selectman or Designee

RECEIVED _____
(date)

at _____
(minute of the day and the hour)

TOWN CLERK or CITY CLERK or Designee

(New Hampshire RSA sections 659:95, 98.)





State of New Hampshire

Ballot Boxes Chain of Custody Log

Storing the Ballot Boxes: RSA 659:98 requires town and city clerks to store sealed boxes of ballots and sealed boxes of absentee balloting materials in a location solely under their control. Clerks must maintain a chain of custody log documenting access and identifying the containers' location.

In order to comply, election officials should do the following:

1. The Moderator and Selectmen (or their respective designees) must seal and deliver the state election ballots and absentee voting materials in sealed boxes to the Town or City Clerk after ballot counting is complete on election night.
2. While the Moderator and Selectmen (or their designees) are still there, the Town or City Clerk must verify that the box ___ of ___ numbering on the seals is accurate. The number in the second position must be the same on all boxes (Red ink label "Ballots" and blue in label "Absentee Voting Materials" boxes included in the same numbering sequence). The clerk must be certain of the total number of boxes being taken into the clerk's possession. Document the receipt of the sealed boxes by entering the date, time of day, and the clerk's signature in the designated blanks on each sealer on each of the boxes of ballots and each of the boxes of absentee voting materials.
3. The Town or City Clerk must then store the sealed boxes of ballots and sealed boxes of absentee ballot materials in a secured location. The storage location must be under the direction of the clerk. This location may only be accessed by other individuals who work under the Clerk's direction or by other town staff who are accompanied by the Clerk or the Clerk's staff.
 - a. It is not unusual for towns or cities to use shared storage spaces. Ballot boxes, in the past, were comingled with materials stored and accessible by other departments in the town or city without the Clerk's knowledge or participation. This is no longer permitted.
 - b. Clerks must keep the containers in a secured space accessible only to individuals under their direction. Clerks might do one of the following:
 - i. Use a different space that is exclusively under the direction of the clerk;
or
 - ii. Modify a section of a common storage space to make it secure and place that specific section of space under the direction of the clerk.
 - c. The Clerk must enter the location of the containers in the log provided by the Secretary of State.
4. Once the containers are properly stored, they may not be accessed except by "individuals working under the direction of the town clerk, as required for recounts, or as necessary for the secretary of state to verify the container storage." RSA 659:98.

Defining "Under the Direction:" The law states that only individuals working "under the

direction” of the town clerk may access the containers. “Under the direction” means that the town or city clerk controls or has knowledge of who has access to the secure space used for ballot storage. Generally, the law does not prohibit storing other materials from other town or city departments in the same building/room as the ballot boxes. Rather, it prevents the access of people trying to deliver or retrieve those materials to the secure area in which sealed boxes of ballots are stored, unless they are under the immediate direction of the town or city clerk. If the space is common to storage of sealed ballot boxes and other town materials, best practice is for the clerk or the clerk’s staff to be directly involved in providing admittance to the storage space and/or directly overseeing the placement or removal of other materials from the storage space. The person overseeing other department’s access to the storage space for ballots should be able to testify under oath that the stored sealed ballot boxes were not accessed.

If the town stores its ballots in a larger room where other departments also store materials, an acceptable alternative is to use a secure container or room within that room that is exclusively used by the clerk to store sealed boxes. A lockable cabinet, a locker large enough for the sealed boxes, or enclosing the ballot box storage with plywood or wire mesh walls and a lockable door, to which only the clerk has the key, would satisfy the law.


Logging Access Entries: Clerks must maintain a chain of custody log that documents where sealed boxes are stored. A log satisfying the law is attached, is available in the Election Procedure Manual, and in electronic form in *ElectioNet* > Help > Instructions. Log entries must be made for all of the following actions:

1. The initial storage of the sealed boxes of ballots and absentee voting material;
2. All access made to the storage boxes (for example, removal of the boxes of ballots stemming from a town election in order to conduct a town recount and later returning the boxes of ballots back to the storage location) must be logged;
3. The transfer of custody of the boxes to the Secretary of State for purposes of a recount; and/or
4. The removal of the boxes from storage and the details of the boxes’ destruction.

For each log entry, a signature by the clerk or deputy clerk, as well as one witness, who can be an assistant clerk, is required. The log must be kept in the Clerk’s office. The log is a public document, subject to disclosure under the Right-to-Know law.

While RSA 659:98 does not specify the retention period for the ballot storage box custody logs, best practice is to preserve the logs for the same period of time as required for similar records by RSA 33-A:3-a. Records are generally required to be preserved until all contests voted at the election and all related appeals have expired or 7 years, whichever is longer.

Sealed Ballot Boxes – Chain of Custody & Storage Log



State of New Hampshire

Sealed Ballot Boxes – Chain of Custody & Storage Log

City/Town: _____ Ward: _____

Date of Election: _____

Date of Entry	Location of Ballot Boxes <small>Street address, building name, room name / number</small>	Total Number of Boxes	Reason for Access (initial storage, removal for recount, transfer of custody, removal for destruction, etc.) If less than all boxes are accessed or moved, list box numbers accessed or moved.	Location of Ballot Box After Access <small>Street address, building name, room name / number</small>	Signatures & Printed Name Clerk or Deputy Clerk Witness
<small>Election Day</small> 9/13/2022	<small>Falling Place Address</small>	8	<i>Transfer to Clerk from Moderator & Selectmen</i>	<i>Clerk's office locked closet</i>	<small>Ins. Clerk</small> _____ <small>Ins. Clerk</small> _____ <small>Clerk / Deputy</small> _____ <small>Ins. Witness</small> _____ <small>Ins. Witness</small> _____ <small>Witness</small> _____

Instructions: Log entries must be made for each of the following actions: (1) the initial storage of the sealed boxes of ballots and absentee voting material; (2) all access made to the storage boxes; (3) the transfer of custody of the boxes to the Secretary of State for purposes of a recount; and/or (4) the removal of the boxes from storage and the details of the boxes' destruction.

For each of the entries, a signature by the clerk or deputy clerk as well as one witness, is required. This log must be available as a public record in the Clerk's office. This log is a public document subject to disclosure under the Right-to-Know laws.

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Inspector's Name: _____

Town/City Ward: _____

Polling Place Facility (Name): _____ i.e. Town Hall, Middle School, etc

Date: September 13, 2022 / November 8, 2022 (Circle One) Time: ___:___ AM/PM (Circle One)

Moderator's Name _____

For Moderator's name, this may be the Deputy or Pro Tem Moderator. Write in the name of whoever is serving when you inspect.

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
Exterior					
Traffic	Are traffic access routes adequate to enable access to the polling place?	1			
Accessible Parking	Is there at least one 8-foot wide accessible van parking space marked with a proper sign? (There must be an 8-foot wide parallel access aisle next to the space.) RSA 658:9-a, I.	2			
Parking	Is parking adequate to enable access to the polling place?	3			
No Electioneering Zone	Is there <i>at least one</i> zone at least 10 feet wide extending from the entrance(s) to the polling place where electioneering is prohibited? RSA 659:43	4.a.			
Electioneering Allowed Outside	Are people electioneering outside allowed within sight and sound (conversational voice volume) of the no electioneering corridor?	4.b.			
Campaign Signs	Are election officials ensuring that there are no unattended campaign signs present on the property of the polling place, outside the no electioneering zone? RSA 664:17 (Law prohibits affixing signs to public property.) RSA 659:43, V prohibits affixing signs to the polling place or grounds and leaving signs unattended.	5			

Identify yourself to the Moderator when entering the polling place. Before completing the inspection, introduce yourself to the Clerk, Selectmen, and Supervisors of the Checklist.

Election Officials	Are the following election officials present at the polling place: Moderator (or assistant moderator), clerk (or deputy or assistant clerk), and at least two supervisors of the checklist (or assistant supervisors of the checklist)? RSA 658:7. Number of selectmen present: _____. RSA 658:21-a allows Selectmen Pro Tem.	6			
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New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
	Is the "Warrant" for General Election/Notice of Primary for Primary, listing date of the election and the hours the polling place will be open to voting posted? 52 USCA § 21082(b)(2)(B). This notice should have been posted at least 14 days prior to election day. RSA 658:1.	7.a.			
	State law, RSA 658:1, requires the Warrant be posted by the selectmen at all polling places and the clerk's office or town hall. Ask a Selectman or Clerk: Was the Warrant posted at the polling place and the clerk's office or town hall?	7.b.			
	There are 8 Mandatory Purity of Elections Posters. Each is labeled with a number, i.e. #1 and then the year most recently updated, i.e. 2022. Is the correct version of each poster listed below posted at the polling place?				
	Instructions to Voters: Are there Instructions to voters signs posted outside the rail and inside each voting booth and screen? #1-2022 There are separate versions for hand count towns versus ballot counting device polling places. There are separate versions for the Primary vs the General.	7.c.			
	Prohibited Acts While Voting (RSA 659:35) #2-2022	7.d.			
	Election Day Registration - #3-2022	7.e.			
Signs	What Constitutes Voter Fraud and what are the penalties. #4-2022	7.f.			
	Voter Identity: Is there a current "New Hampshire Voter ID Law" poster posted outside of the guardrail explaining the photo identification law? RSA 658:29-a. #5-2022	7.g.			
	How are votes challenged? #6-2019	7.h.			

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
	Voters Needing Assistance to Mark a Ballot. #7-2022	7.i.			
	Voting Rights: Is there at least one "Voting Rights" sign listing the AG toll free election line posted outside the rail? 52 U.S.C. §21082. #8-2019	7.g.			
Lines	Voters who were registered before entering the polling place should not have to wait more than 15 minutes to obtain a ballot and have access to a voting booth/screen. Do voters receive ballots within 15 minutes?	8.a.			
	Observe and record the waiting time to obtain a ballot: _____ minutes	8.b.			
	Are eligible voters who choose to register on election day able to start the voter registration process in less than 30 minutes?	8.c.			
	Note the waiting time, if a line exists for registering to vote: _____ Minutes.	8.d.			
Booths	Is there at least one State-issued (large white tent-like) booth easily accessible to elderly persons and persons with physical disabilities? RSA 658:9, III	9.a.			
	Are there at least two standard voting booths? RSA 658:9, V?	9.b.			
	Are there at least two tabletop voting screens? RSA 658:9, V	9.c.			
	Number of Registered Voters on the voter checklist in the town or ward: _____	9.d.			
	Is the checklist certified (signed) by the supervisors - typically on or after the last page of voters? The certification page must state the number of registered voters. RSA 654:29, I.				
	Total combined number of Booths and Screens: _____	9.e.	N/A	N/A	
Are there a total of at least one booth or screen for every (<i>General Election 125 people, Primary Election 150 people</i>) listed on the checklist (excluding new election day registrants)? RSA 658:9, V (b); 652:3; 652:6.	9.f.			Registered voters _____ divided by 150 Primary or 125 General = _____ (required total of booths and screens)	

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
Accessible Voting System	Is the accessible voting system (using a touch screen tablet on a docking station) for accessible voting set up and functioning? Check for a light on the docking station. When turned on, the screen should be lit up, show a logo, and present the user a choice to enter an access code. 52 USCS § 21081.	10.a.			
	Verify that a test ballot was printed using the one4all Accessible Voting System. Check to ensure that the test ballot printed shows the correct town/city ward and that it is marked "TEST" or "Spoiled" by the moderator. <i>Verify that the ovals for the selected candidates in the test are filled in by the printer.</i>	10.b.			
Electioneering	Is electioneering prohibited within the polling place? RSA 659:43; RSA 659:44; RSA 652:16-h. <i>The law now provides that a person: who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.</i>	11			
Guardrail	Is there a guardrail (wooden rail, rope, ribbon, tape, or any other system) separating the voting area from the public area? RSA 658:9	12.a.			
	Is the guardrail positioned so that no one outside the rail can approach closer than 6 feet from the voting booths and the ballot box or ballot counting device? RSA 658:9	12.b.			
	Are persons (other than election officials and voters marking and casting ballots or assisting another voter) prohibited from entering within the rail? RSA 659:21	12.c.			

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
Checking in to Vote	When a voter checks in to receive a ballot, does the ballot clerk repeat the voter's name out loud before putting a check next to the voter's name? RSA 659:13	13.a.			
	If the voter's name is not on the checklist, does the ballot clerk direct him or her to the supervisors of the checklist?	13.b.			
	When a voter checks in, does the ballot clerk state the address of the voter listed on the checklist and ask the voter to verify it is correct? RSA 659:13	13.c.			
	If the voter's address is NOT correct, and the voter's address is within the same town or ward, is the ballot clerk correcting the address in red ink on the checklist?	13.d.			
	If the voter's address is NOT correct, and the voter's address is NOT within the same town or ward, is the ballot clerk informing the voter that he or she is at the wrong polling place, that they can only vote where they are domiciled, and does some election official try to help the voter identify the address of the voter's correct polling place?	13.e.			
	Does the ballot clerk ask the voter to present a valid photo ID? RSA 659:13	13.f.			
Checking in to Vote (Cont.)	For voters who do not present a valid photo ID, is the ballot clerk giving those voters a copy of the explanatory document prepared by the Secretary of State? RSA 659:13, I(c)(1). #5-2022.	13.g.			
	For voters who do not have a valid photo ID, are they able to vote (a) by being verified by the moderator, clerk, or supervisor of the checklist, or (b) by submitting a challenged voter affidavit (with a photo or signed affidavit of religious exemption attached) to the ballot clerk? RSA 659:13. It is recommended that a greeter or signs direct a registered voter who does not have photo ID to the voter ID table so the voter can complete the challenged voter affidavit when the voter first enters the polling place, before he or she gets in the voter check-in line.	13.h.			

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
	Does the ballot clerk use a ruler or a straight edge to draw a single thin line through the voter's last name to record that the voter has been given a ballot? RSA 659:13, I(b)	13.i.			
Absentee Ballots	Will/did the Moderator start processing absentee ballots at 1:00 PM or the time stated on the notice posted at the polling place? (The moderator or the moderator's designee may authorize the processing of absentee ballot return envelopes on election day prior to 1 PM if the start time is no earlier than 2 hours after the opening of the polls and the time is posted and announced at least 24 hours in advance.) RSA 659:49, 659:49-b	14.a.			
	If the Moderator or designee began to process absentee ballots earlier than 1 PM, did the moderator or designee post the time they will begin processing of absentee ballots 24 hours in advance? RSA 659:49, 659:49-b	14 b.			
Ballot Counting Devices	Are the Activity Logs (memory card(s), tape seals, canvas bag), and the Access Log properly filled out? Can the moderator or clerk show you the documentation of having conducted a successful test: (a) the hand count, and (b) the results tape from the ballot counting device. RSA 656:42. Election Procedure Manual, Pages 316-319.	15.a.			
	Are there two tape seals & the wire seal on the memory card post properly in place without evidence of tampering? RSA 656:42	15.b.			
	Is a zero tape from the ballot counting device available for inspection and in proper form? RSA 656:42. Election Procedure Manual Page 319.	15.c.			
Official Ballots	Has the moderator ensured that no official election day ballots are removed from within the guardrail for any purpose? RSA 659:38. RSA 659:20-a, allows absentee ballots to be removed outside the guardrail when an unforeseen accessibility event arises, but not to resolve ongoing accessibility problems.	16			

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
Challengers	Does the moderator position challengers (designated in writing by the Dem. or Rep. party) in a place to enable them to see and hear voters check in with the ballot clerks? RSA 666:4	17.a			
	Are challenges being made at the voter check in table? Challenges are prohibited from being made at the voter registration table. (Does not apply to challenges made by election officials.) RSA 659:27	17.b.			
Registered Voters Making Challenges	Are individuals who are making challenges either party-appointed challengers or challengers registered to vote in the town or ward where the challenge is being made? RSA 659:27,III. All challenges, regardless of by whom, need to be made on the "Asserting a Challenge" form 659:27-a. Challenges should be made at the check-in table. RSA 654:7-c	18			
Observers	Are observers (members of the public) at least 5 feet from the registration table? RSA 654:7-c	19.a.			
	Can a person in the area for observers hear the ballot clerks announce the names of voters as the voters check in? RSA 654:7-c	19.b.			
	Are observers (members of the public) at least 6 feet from the check-in table, unless the moderator expressly permits them to be closer? RSA 659:13-a	19.c.			
	Is there a public viewing area outside the rail available for observers from campaigns and the public? RSA 659:21 & 654:7-c	19.d.			
Voter Registration	Are people being allowed to register to vote at the polling place? RSA 654:7-a.	20.a			
	Are people who register to vote being required to prove: (RSA 654:12)	20.b.			
	i. Their <i>identity</i> ?				
	ii. If the applicant does not have photo ID, is the applicant's photo being taken? RSA 654:12, III-a.	20.c.			
	iii. Their <i>age</i> if their appearance leaves doubt whether the person is 18 or older?	20.d.			
	iv. Their <i>citizenship</i> ?	20.e.			
v. Their <i>domicile</i> ?	20.f.				

New Hampshire Attorney General's Office

Polling Place Checklist for the 2022 Primary And General Election

Requirement	What to Look For	#	Yes	No	Memo (N/A if not applicable)
Voter Registration Continued	Are those without proof of identity, age, or citizenship offered and allowed to sign a qualified voter affidavit? RSA 654:7; 654:12, I.	20.g.			
	Are those without proof of domicile offered and allowed to use a domicile affidavit? RSA 654:7; 654:12, I (c) (use 2016 version of law due to court order - law for domicile affidavit not printed in 2022 law book)	20.h.			
	Were all voter registration applications accepted? (Except where the basis for rejection is clear and uncontested, the supervisors of the checklist should contact the Attorney General's office before denying (by majority vote) any registration application, including absentee voter registrations.)	20.i.			
	Are the supervisors of the checklist using the correct Voter Registration Form? July 2016 printed on the lower left corner? RSA 654:7, IV. Due to court order this 2016 form is used, not the form in current statutes.	20.j.			
	Are the supervisors of the checklist using the Qualified Voter Affidavit stand-alone form for affidavits of identity, age, and citizenship? RSA 654:12, 659:13; 659:27.	20.j.			
If the inspection period continues after the polls close to voting and during the ballot counting also address the following:					
Challengers at ballot counting	Are party appointed challengers allowed a position outside the rail where the challenger can see and hear the hand counting of ballots and "maintain a line of sight on any electronic ballot counting device?" RSA 666:5-a. The law, however, still requires that "no ballot shall be placed within 4 feet of the guardrail during the counting of votes." RSA 659:63.	21.a			

RECOMMENDED DISTRIBUTION OF LETTERS FOR MULTIPLE CHECK- IN STATIONS

This distribution of letters is based on the first letter of the last name of all New Hampshire Voters in 2022. It distributes the voters to the number of check-in stations in the top row in numbers that are as equal as possible. The 2022 analysis compared to the 2018 analysis had only minor shifts in the distribution, none that warranted changes to this chart.

		Number of Voter Check-in Stations													
		2	3	4	5	6	7	8	9	10	11	12	13	14	15
Distribution of Letters of the Alphabet	A-K	A-F	A-C	A-C	A-B	A-B	A-B	A-B	A-B	A-B	A	A	A	A	A
	L-Z	G-M	D-J	D-G	C-E	C-D	C-D	C	C	C	B	B	B	B	B
		N-Z	K-P	H-L	F-I	E-G	E-G	D-F	D-F	D-E	C	C	C	C	C
			Q-Z	M-Q	J-M	H-K	H-K	G-H	G-H	F-G	D-E	D-E	D-E	D-E	D-E
				R-Z	N-R	L-M	L-M	I-L	I-L	H-J	F-G	F-G	F-G	F-G	F
					S-Z	N-R	N-Q	M	M	K-L	H-J	H-J	H-J	H-J	G
						S-Z	R-S	N-Q	N-P	M	K-L	K-L	K	H-J	
							T-Z	R-S	Q-R	N-P	M	M	L	K	
								T-Z	S-T	Q-R	N-P	N-P	M	L	
									U-Z	S	Q-R	Q-R	N-P	M	
										T-Z	S	S	Q-R	N-P	
											T-Z	T-U	S	Q-R	
												V-Z	T-U	S	
													V-Z	T-V	
															W-Z

An Excel Version of this chart which shows the number and % of voters for each letter of the alphabet and the distribution for each check-in station is available upon request to nhvotes@sos.nh.gov.

BALLOT CLERK PROCEDURE - Primary

Before Voters are allowed in the Voter Check-in (Ballot Clerk) line, a greeter should ask them if they are a registered voter, inform them of the Voter ID law and direct them to the correct line or table: Registered to Vote (Voter Check-in), Not Yet Registered (Voters Register Here), or No Photo ID, Start Here.

Before allowing a Voter into the area within the guardrail, the Ballot Clerk Shall:

1. Ask the Voter to announce his or her name, domicile address, AND the name of the party in which he or she is registered.
 - Ask an undeclared Voter desiring to vote in a party primary to announce the name of the party in whose primary he or she wishes to vote. (RSA 659:14)
2. Search the checklist, find the Voter's name and address, and read aloud the Voter's name, domicile, mailing address (if any), and party affiliation as they appear on the checklist. Always read loud enough so challengers present can hear the information.
 - If the Voter's name is on the checklist place a ruler under the Voter's name/address. Make a check mark ✓ in the box beside the correct name. Repeat the name aloud.
 - Direct a Voter whose name is NOT on the checklist, or is reporting a name change to the Supervisors of the Checklist/Registrars.
 - When the voter returns after changing their name, **write the new name in RED INK above the old name of the voter.** (See example bottom of page 2)
 - When the voter returns after registering to vote, **write in the voter's information wherever the Moderator has instructed you to add Election Day Registrations:**
 - **Best Practice is on the last page of the section of the checklist for the first letter of the last name; OR**
 - **On the "New Registered Voters List"**

Print Date : _____		Town of _____, NH			
		Official Checklist			
		PRIMARY ELECTION			
		Page 3			
Party	Voter Name	Identity Domicile Address	Mailing Address	Ward Voter ID	Barcode
UND	✓ Jones, Pamela Debra	CVA	55 Elm Street		

New Registered Voters List				Election Date: _____		
Letter: J	Town/City of Anytown	Ward#	Page #: 3A			
✓ Party	Last Name	First Name	Middle Name	CVA	OOS DL	Address
✓ UND	Jones	Pamela	Debra			55 Elm Street


Write legibly:

- Party
- Last, first, middle name and suffix, if applicable
- Domicile address
- Write in state abbreviation if they presented an Out-Of-State DL
- Check the CVA box/column if the voter signed a Challenged Voter Affidavit (CVA) or a CVA/New Voter Authorization Form indicating a photo was taken at registration and is attached to the QVA

3. Ask the Voter if the domicile and mailing address (if any) are correct.
 - If the domicile or mailing address is NOT correct, and the current domicile address is within the same town or ward, correct the address(es). **Write the correct address in RED INK above the current address(es).** (RSA 659:13)
 - If the domicile address is NOT correct, and the Voter's current address is NOT within the same town or ward, inform the Voter that he or she is not at the correct polling place. Encourage the Voter to use election day registration to vote at his or her correct polling place. Direct the voter to the Moderator for directions to the correct polling place or if the Voter needs more information.
4. Mark the party choice of an undeclared Voter on the checklist using the first three letters of the name of the party, DEM or REP, in **RED INK, above the UND.** (RSA 654:15)
5. If a Voter registered as a member of a party wishes to change their party on primary day, direct the Voter to the supervisor's table and do not give the Voter a ballot. A voter who changes from one party to the other at the polls may not vote in the primary. (RSA 654:34, I(b))

BALLOT CLERK PROCEDURE - Primary

6. Request the Voter to present a valid photo ID as listed on page 3 of the “Explanatory Document – Proof of Voter Identity Instructions.”

- Example of a NH driver’s license 
- A valid photo identification must show the name and photo of the individual.
 - The name shall substantially conform to the name of the individual on the checklist or voter registration record, but need not be exactly the same.
 - The photo identification shall not have been expired for more than 5 years.
 - Exception: a voter 65 years or older may use an acceptable ID even if it is expired.



7. If the Voter presents an Out-of-State driver’s license or non-driver ID, record the two-letter state abbreviation (e.g. VT, MA, ME, NY) in RED INK to the right of the “CVA” box on the checklist.

8. For a registered voter without a photo ID:

- Ask the voter if the Moderator, Clerk, or any Supervisor knows the voter well enough to verify the voter’s identity. If yes, ask that official to verify the voter’s identity. If the official verifies identity, mark the checklist as if the voter presented a photo ID. (No additional mark is required.) The law does not authorize Ballot Clerks and Selectmen to verify identity. (RSA 659:13, II (b))
- If the Moderator, a Supervisor, or Clerk, do not know the voter, send the voter to the “No Photo ID – Start Here” table. He or she must complete a Challenged Voter Affidavit (CVA). (RSA 659:13(c))

9. If the Voter presents a signed “CVA” with an attached photo or a signed “CVA” with an attached “Religious Affidavit” put a check mark ✓ in the box on the checklist in the “CVA” column. (RSA 659:13)

10. Take the signed “CVA” with an attached photo or the signed “CVA” with an attached “Religious Affidavit” from the Voter and place it in the folder or container marked for this purpose.

11. Document issuing a ballot(s) to the voter. Use a ruler or straight edge to mark a single thin line through the last name of the voter on the checklist. This requires a second look at the voter’s name and the use of the ruler to ensure the correct name is marked. For example, Jones, John. This line should not be so thick that you cannot read the voter’s last name. Using both a check mark and single thin line through the last name confirms that the voter both checked in and picked up a ballot. This ensures the accuracy of the record of who voted. (RSA 659:13)

12. Give the Voter the ballot(s) matching the Voter’s party on the checklist. (RSA 659:15; 659:38)

13. Once the Voter has the ballot(s), allow the Voter to enter the space enclosed by the guardrail, unless challenged as provided for in RSA 659:27 through 659:32. The Moderator will handle a challenge to a voter.

14. For an absentee voter, in addition to the check mark and the thin line through the last name, mark “A.V.” in RED INK to the left of the check box. (RSA 659:52)

15. It is important to record all the required data on the checklist so that Supervisors can fulfill their duty under law to enter all of the information into the Statewide Voter Registration System (SVRS called Electionet).

Town of ANYTOWN NH						
Official Checklist						
PRIMARY ELECTION						
Page 1						
Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID Barcode
Ward 00		CVA				
<input checked="" type="checkbox"/>	UND AARON , JOSEPH MICHAEL	<input checked="" type="checkbox"/>	97 MAIN ST	PO BOX 123 , ANYTOWN, 00 NH 99999 - 1234	300	
	<i>Clark, Mable Elle</i>		<i>22 Main St</i>			
<input checked="" type="checkbox"/>	DEM AARON , MABLE ELLE	<input type="checkbox"/>	97 MAIN ST		00 300	
<input type="checkbox"/>	UND ABEAR, RONALD	<input type="checkbox"/>	717 ELM ST		00 300	
<i>A.V.</i> <input checked="" type="checkbox"/>	REP ABLE , CONSTANCE DENISE	<input type="checkbox"/>	22 BEAN RD		00 300	
<input checked="" type="checkbox"/>	UND ABRAMA , GROVER	<input type="checkbox"/>	<i>MA</i> 98 MAIN ST		00 300	

BALLOT CLERK PROCEDURE - Primary



STATE OF NEW HAMPSHIRE - VOTER ID LAW (RSA 659:13) EXPLANATORY DOCUMENT (RSA 652:26) PROOF OF VOTER IDENTITY INSTRUCTIONS (RSA 658:29-a)

What type of ID will I need to vote?

- Driver's license issued by any state or federal government;
- Non-driver ID card issued by NH DMV or motor vehicle agency of another state;
- Photo ID card for "voting identification only" issued by NH DMV (RSA 260:21);
- United States armed services identification card;
- United States passport or passcard;
- NH student ID card (see information below);
- A photo ID not mentioned above, but determined to be legitimate by the moderator, supervisors of the checklist, or clerk of a town, ward or city. If any person authorized to challenge a voter does so under this provision, the voter shall be required to fill out a challenged voter affidavit before obtaining a ballot.
- Verification of the voter's identity by a moderator or supervisor of the checklist or clerk of a town, ward or city (not a ballot clerk). If any person authorized to challenge a voter does so under this provision, the voter shall be required to fill out a challenged voter affidavit before obtaining a ballot.

An acceptable photo ID must have an expiration date or date of issuance. The ID will remain valid 5 years beyond the expiration date unless the voter is 65 or older in which case an acceptable photo ID may be used without regard to expiration date. The name on the ID shall substantially conform to the name of the individual on the checklist or voter registration record, but need not be exactly the same.

More on student ID cards:

Acceptable student photo ID cards must be issued by:

- A college, university, or career school approved or licensed to operate in New Hampshire
- A public high school in New Hampshire
- A non-public high school in New Hampshire accredited by a private school accrediting agency that is recognized by the NH Department of Education
- Dartmouth College
- A college or university operated by the university system of New Hampshire or the community college system of New Hampshire

All student ID cards must have an issuance or expiration date that has not been exceeded by more than 5 years. Each August the Commissioner of the Department of Education will provide to the Secretary of State a list of all approved, licensed, and accredited schools from which a student ID is acceptable.

*Questions? - See Poster #5 – State of NH – Voter ID Law for full version posted at your polls. This is an abbreviated explanation, issue voters without ID the full #5-2022, two sided document.

BALLOT CLERK PROCEDURE - General

Before Voters are allowed in the Voter Check-in (Ballot Clerk) line, a greeter should ask them if they are a registered voter, inform them of the Voter ID law and direct them to the correct line or table: Registered to Vote (Voter Check-in), Not Yet Registered (Voters Register Here), or No Photo ID, Start Here.

Before allowing a Voter into the area within the guardrail, the Ballot Clerk Shall:

1. Ask the Voter to announce his or her name, and domicile address.
2. Search the checklist, find the Voter's name and address, and read aloud the Voter's name, domicile, and mailing address (if any), as they appear on the checklist. Always read loud enough so challengers present can hear the information.
 - If the Voter's name is on the checklist place a ruler under the Voter's name/address. Make a check mark ✓ in the box beside the correct name. Repeat the name aloud.
 - Direct a Voter whose name is NOT on the checklist, or is reporting a name change to the Supervisors of the Checklist/Registrars.

- When the voter returns after changing their name, **write the new name in RED INK above the old name of the voter.** (See example bottom of page 2)

- When the voter returns after registering to vote, **write in the voter's information wherever the Moderator has instructed you to add Election Day Registrations:**

- **Best Practice is on the last page of the section of the checklist for the first letter of the last name; OR**

- **On the "New Registered Voters List"**

Town of <u>Amherst</u> , NH Official Checklist PRIMARY ELECTION						
Print Date : _____						Page 3
Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID Barcode
UND	00 CONT.	CVA				
	✓ Jones, Pamela Debra		55 Elm Street			

New Registered Voters List							Election Date: _____
Letter: <u>J</u>	Town/City of <u>Amherst</u>			Ward# _____	Page #: <u>3A</u>		
Party	Last Name	First Name	Middle Name	CVA	OOS DL	Address	
✓	UND	Jones	Pamela	Debra		55 Elm Street	

Write legibly:

- Party
- Last, first, middle name and suffix, if applicable
- Domicile address
- Write in state abbreviation if they presented an Out-Of-State DL
- Check the CVA box/column if the voter signed a Challenged Voter Affidavit (CVA) or a CVA/New Voter Authorization Form indicating a photo was taken at registration and is attached to the QVA

3. Ask the Voter if the domicile and mailing address (if any) are correct.
 - If the domicile or mailing address is NOT correct, and the current domicile address is within the same town or ward, correct the address(es). **Write the correct address in RED INK above the current address(es).** (RSA 659:13)
 - If the domicile address is NOT correct, and the Voter's current address is NOT within the same town or ward, inform the Voter that he or she is not at the correct polling place. Encourage the Voter to use election day registration to vote at his or her correct polling place. Direct the voter to the Moderator for directions to the correct polling place or if the Voter needs more information.
4. Request the Voter to present a valid photo ID as listed on page 3 of the "Explanatory Document – Proof of Voter Identity Instructions."

- Example of a NH driver's license →
- A valid photo identification must show the name and photo of the individual.
 - The name shall substantially conform to the name of the individual on the checklist or voter registration record, but need not be exactly the same. Long names and names with an apostrophe may be slightly different.



BALLOT CLERK PROCEDURE - General

- The photo identification shall not have been expired for more than 5 years.
 - Exception: a voter 65 years or older may use an acceptable ID even if it is expired.
5. If the Voter presents an Out-of-State driver's license or non-driver ID, record the two-letter state abbreviation (e.g. VT, MA, ME, NY) in **RED INK** to the right of the "CVA" box on the checklist.
 6. For a registered voter without a photo ID:
 - Ask the voter if the Moderator, Clerk, or any Supervisor knows the voter well enough to verify the voter's identity. If yes, ask that official to verify the voter's identity. If the official verifies identity, mark the checklist as if the voter presented a photo ID. (No additional mark is required.) The law does not authorize Ballot Clerks and Selectmen to verify identity. (RSA RSA 659:13, II (b))
 - If the Moderator, a Supervisor, or Clerk, do not know the voter, send the voter to the "No Photo ID – Start Here" table. He or she must complete a Challenged Voter Affidavit (CVA). (RSA 659:13(c))
 7. If the Voter presents a signed "CVA" with an attached photo or a signed "CVA" with an attached "Religious Affidavit" put a check mark ✓ in the box on the checklist in the "CVA" column. (RSA 659:13)
 8. Take the signed "CVA" with an attached photo or the signed "CVA" with an attached "Religious Affidavit" form the Voter and place it in the folder or container marked for this purpose.
 9. Document issuing a ballot(s) to the voter. Use a ruler or straight edge to mark a single thin line through the last name of the voter on the checklist. This requires a second look at the voter's name and the use of the ruler to ensure the correct name is marked. For example, ~~Jones~~, John. This line should not be so thick that you cannot read the voter's last name. Using both a check mark and single thin line through the last name confirms that the voter both checked in and picked up a ballot. This ensures the accuracy of the record of who voted. (RSA 659:13)
 10. Give the Voter the appropriate ballot(s). (RSA 659:15; 659:38)
 11. Once the Voter has the ballot(s), allow the Voter to enter the space enclosed by the guardrail, unless challenged as provided for in RSA 659:27 through 659:32. The Moderator will handle a challenge to a voter.
 12. For an absentee voter, in addition to the check mark and the thin line through the last name, mark "**A.V.**" in **RED INK** to the **left of the check box**. (RSA 659:52)
 13. It is important to record all the required data on the checklist so that Supervisors can fulfill their duty under law to enter all of the information into the Statewide Voter Registration System (SVRS called *ElectioNet*).

Town of EXETER NH						
Official Checklist						
Print Date: 07/20/2016	ERT GENERAL ELECTION - 07/20/2016					Page 1
Party	Voter Name	Identity	Domicile Address	Mailing Address	Ward	Voter ID Barcode
Ward 00						
<input checked="" type="checkbox"/> LIB	AARON, CLAUDIA ANN	<input checked="" type="checkbox"/> CVA	54 MAIN ST	PO Box 95 PO BOX 123,, ANYTOWN, NH 03555	00	300348386
<input type="checkbox"/> DEM	AARON, JAMES H	<input type="checkbox"/>	54 MAIN ST		00	300348381
A.V. <input checked="" type="checkbox"/> REP	ABDE, LYNDA D	<input type="checkbox"/>	1 BEAN RD		00	300348382
<input checked="" type="checkbox"/> UND	ABLE, CONSTANCE DEE	<input type="checkbox"/> MA	21 THOMPSON HILL RD		00	300348383
<input checked="" type="checkbox"/> UND	ABRAHAM, GEORGE	<input checked="" type="checkbox"/>	136 STEWART RD	22 Main St	00	300348385

BALLOT CLERK PROCEDURE - General



STATE OF NEW HAMPSHIRE - VOTER ID LAW (RSA 659:13)

EXPLANATORY DOCUMENT (RSA 652:26)

PROOF OF VOTER IDENTITY INSTRUCTIONS (RSA 658:29-a)

What type of ID will I need to vote?

- Driver's license issued by any state or federal government;
- Non-driver ID card issued by NH DMV or motor vehicle agency of another state;
- Photo ID card for "voting identification only" issued by NH DMV (RSA 260:21);
- United States armed services identification card;
- United States passport or passcard;
- NH student ID card (see information below);
- A photo ID not mentioned above, but determined to be legitimate by the moderator, supervisors of the checklist, or clerk of a town, ward or city. If any person authorized to challenge a voter does so under this provision, the voter shall be required to fill out a challenged voter affidavit before obtaining a ballot.
- Verification of the voter's identity by a moderator or supervisor of the checklist or clerk of a town, ward or city (not a ballot clerk). If any person authorized to challenge a voter does so under this provision, the voter shall be required to fill out a challenged voter affidavit before obtaining a ballot.

An acceptable photo ID must have an expiration date or date of issuance. The ID will remain valid 5 years beyond the expiration date unless the voter is 65 or older in which case an acceptable photo ID may be used without regard to expiration date. The name on the ID shall substantially conform to the name of the individual on the checklist or voter registration record, but need not be exactly the same.

More on student ID cards:

Acceptable student photo ID cards must be issued by:

- A college, university, or career school approved or licensed to operate in New Hampshire
- A public high school in New Hampshire
- A non-public high school in New Hampshire accredited by a private school accrediting agency that is recognized by the NH Department of Education
- Dartmouth College
- A college or university operated by the university system of New Hampshire or the community college system of New Hampshire

All student ID cards must have an issuance or expiration date that has not been exceeded by more than 5 years. Each August the Commissioner of the Department of Education will provide to the Secretary of State a list of all approved, licensed, and accredited schools from which a student ID is acceptable.

*Questions? - See Poster #5 – State of NH – Voter ID Law for full version posted at your polls.

This is an abbreviated explanation, issue voters without ID the full #5-2022, two sided document.

Absentee Ballot Rejected Reasons

On August 14, 2018, the United States District Court for the District of New Hampshire held that RSA 659:50, III is unconstitutional. This provision previously required moderators, when processing absentee ballots on Election Day, to compare the signatures on an absentee ballot application and the absentee ballot affidavit envelope in order to determine whether the documents "appear[] to be executed by the same person."

Moderators are therefore prohibited from conducting the signature comparison set forth in RSA 659:50, III for the upcoming September 11, 2018 election and for all future elections. This guidance will remain in effect until such time that the law is amended or our offices otherwise advise.

- Absentee Ballot Application Not Signed
- Absentee Ballot Challenged by Another Voter at the Polls on Election Day
- Absentee Ballot Application and Affidavit had two Different Names
- Absentee Ballot Received after Election Day
- Affidavit on the Absentee Ballot Envelope Not Signed
- Already Voted by Absentee Ballot
- Ballot Missing From Envelope
- Envelope Rec'd Other Than by Mail or Delivery Agent
- Incomplete Absentee Registration Affidavit
- Incomplete Voter Registration Form
- Invalid Signature on Application for Absentee Ballot
- Missing Affidavit
- Multiple Ballots Returned in the Same Envelope
- No Absentee Registration Affidavit Envelope Returned
- No Written Application for Absentee Ballot Submitted
- Not a Registered Voter
- Spoiled Ballot
- Voted in Person
- Voter Indicated They are no Longer Eligible for Absentee Ballot
- Voter is Deceased

"Wrong Ballot" has been removed from this list. If the voter sends in the wrong ballot, for example a ballot printed for a different town/ward, hand count the vote for the offices (same candidates) and questions that appear on the ballot the voter should have received/submitted. To the extent practical, give effect to the intent of the voter. Where the candidates, office, or question on the marked (wrong) ballot do not appear on the correct ballot for your polling place, hand count as an undervote for that office or question.

XXVIII. COUNTING AND RECOUNTS

COUNTING INSTRUCTIONS – MODEL 1

Sort-and-Stack Method

This is a model describing how some moderators have chosen to count ballots. State law authorizes the moderator to choose the system of hand counting to be used and to supervise the counting, RSA 659:60. This model is presented as one example of an acceptable practice, however, neither state law nor the Secretary of State require that any particular system of counting be used. Moderators must ensure that the system of counting they adopt is accurate and efficient.

The Secretary of State relies upon a variation of the sort-and-stack hand counting method below for recounting simple races, based on observation and performance in recounting well over 1 million ballots.

This sort-and-stack method is considered the more accurate and easy method by the counters themselves, since each mark is often reviewed more times than other methods, staff requirements are less, and mistakes are easier to notice and avoid. The sort-and-stack method is not used by the Secretary of State in recounts for races with multiple winners. However, this process has been used effectively by some towns to count multi-member representative races.

Overview of Sort and Stack Method

- Ballots are sorted into piles before they are counted
- One pile for identical votes in that race
 - Each candidate or alternative on a question
 - Overvotes (When the voter selects more choices than allowed in a contest, the number of choices the voter has sacrificed in this race). Overvotes for each race/question must now be reported on the Moderator's Worksheet/Return of Votes.
 - Undervotes (skipped choices) Undervotes for each race/question must now be reported on the Moderator's Worksheet/Return of Votes.
 - Write-ins
 - Judgment calls for the moderator and election team

Using the Method

- Counters and observers are looking at only one candidate or question on the ballot at a time;
- Counters' and observers' eyes do not have to move to different locations on the ballot and on the tally sheet;
- When looking for only one mark on one precise location on the ballot, it is harder to make mistakes.

Rule of Thumb: Each Ballot Checked Three Times

- Aim for eyes checking each ballot choice 3 times;

- Using a 2-person team, that might mean that the 2 members sort ballots simultaneously into the same piles and each looks at the ballot choices as he or she counts each stack;
- The 2 members count each pile independently and record and check the sum on the tallysheet.

Distributing Ballots to Teams

- Open the ballot box in view of the public.
- Moderators place an established quantity of ballots - say 200 – on each table assigned to a counting team;
- The 2 team members count the ballots in batches of 50;
- If it becomes necessary to redo a particular part of the process because the results do not equal the number of ballots, counters will take less time to recount 50.



Start Counting Ballots

- Team members must look at each ballot as they place it into the correct pile;
- Once the table has the first 50 ballots assigned to it, sorted into these six piles, start the counting process with the pile of ballots for the first candidate on the ballot.

Counting Ballots

- One team member counts the ballots in the first candidate's pile into groups of ten;
- The member stacks each group of ten ballots and the remainder at right angles to each other on the same pile, allowing an easy count by "tens" for the entire stack;
- The second team member counts the same pile independently;
- The 2 members resolve any "Questions" by calling the moderator to determine voter intent.
- Both counters independently count each pile, agree on the number for each candidate, and enter it in the tally sheet.
- Team members keep a tally of the number of ballots with one or more overvoted races or questions. The number of ballots containing one or more overvoted races/questions must now be reported on the Moderator's Worksheet/Return of Votes.

Both counters count the piles of ten, plus remainders, agree on the number and enter it in the tally sheet.

Candidates		Over	Under	Write-	Total
A	B	votes	votes	ins	
19					

- Any discrepancies discovered along the way are mostly resolved by checking the last 10 ballots, rather than a larger number that would take some time to backtrack for resolution. Next Candidate, Same Contest
- When finished with the first candidate, members begin counting the next candidate in the same contest;
- Each of the piles is independently counted by the 2 team members, with each looking at the mark on each ballot;
- Team members agree on the number to enter on the tally sheet.

Both counters count the piles of ten, plus remainders, agree on the number and enter it in the tally sheet.

Candidates		Over	Under	Write-	Total
A	B	votes	votes	ins	
19	17				

Same contest – 3rd candidate

- If there is another candidate in that contest, each team member counts the pile for that candidate and they agree on the number to enter on the tally sheet.

Same Contest, Counting the Piles of Undervotes and Overvotes

- Counters independently count the piles for undervotes and overvotes and agree on the numbers to enter on the tally sheet.
- The team must add the votes for each candidate, write-ins, and the number of undervotes (skipped choices) and overvotes (sacrificed choices when the voter votes more choices than allowed) in that contest.
- Enter the total in the far right column of each row. It should equal 50, the batch size the team began with in this step.

Counters repeat the process to count separately the piles for undervotes, overvotes and write-ins and agree on the numbers to enter on the tally sheet.

Candidates		Over	Under	Write-	Total
A	B	votes	votes	ins	
19	17	9	4	1	50

Keeping Track of Stacks

- When the count for the batch of 50 ballots is complete, contain the batch with an elastic to identify it has been counted. Tallying
- Tally sheets should be turned in - after the numbers equal 50 on the far right, and the aggregate of votes equals 200 on the bottom right;
- This number, e.g. 200 ballots, should match the number of ballots that the table started with;
- Tally sheets should be signed by the 2 team members before being turned in;
- The moderator should designate someone who routinely works with figures to ensure ongoing reconciliation by each table.

Tally Sheet – single contest

	Candidate A	Candidate B	Candidate C	Undervotes	Overvotes	Write-ins	TOTAL
1 st group of 50 ballots	19	17	9	4	1	0	50
2 nd group of 50 ballots	17	22	8	3	0	0	50
3 rd group of 50 ballots	16	18	11	3	1	1	50
4 th group of 50 ballots	18	20	9	2	0	1	50
TOTALS	70	77	37	12	2	2	200

COUNTING INSTRUCTIONS – MODEL 2

ALL OFFICES READ-AND-MARK (BALLOT-BY-BALLOT) METHOD

This is a model describing how some moderators have chosen to count ballots. State law authorizes the moderator to choose the system of hand counting to be used and to supervise the counting. RSA 659:60. This model is presented as one example of an acceptable practice, however, neither state law nor the Secretary of State require that any particular system of counting be used. Moderators must ensure that the system of counting they adopt is accurate and efficient.

Step #1 – Close the Polls.

Step #2 – Verify that all absentee ballots have been processed.

Step #3 – Rearrange the polling place for counting. Counting tables must be at least 4 feet from the rail. All counting, however, must occur where it is visible to members of the public located outside the rail. **Challengers must be able to see and hear the hand-counting of ballots and to maintain a line of sight on any electronic ballot counting device. RSA 666:5-a.**

Step #4 – Have the supervisors count the number of registered voters (including those who registered on election day) who are checked off as having voted on the checklist.

Step #5 – Identify all the people who will be counting. Identify those people who will be counting who are not election officials and who have not taken an oath of office.

Step #6 – Swear in these non-election officials as election officials (inspectors of election pro tempore). RSA 658:7 gives the moderator authority to appoint such election officials as he or she deems necessary. As election officials, the volunteer ballot counters are swearing or affirming that they will perform their duties lawfully and they become subject to criminal prosecution for official misconduct pursuant to RSA 666:3.

Step #7 – Read the instructions for counting to all the election officials who will be counting.

Step # 8 – Open the ballot box(es) in view of the public. Place similar quantities of ballots on the table to be used by each counting team.

Step #- 9 – Have the counting teams count the ballots into piles of a known size (10, 25, 50 or 100 ballots).

Step #10 – Wrap each pile with a rubber band, clip it with a large binder clip, or stack them crosswise.

Step #11 – Prepare a tally sheet. (Tally sheets should be prepared ahead of time.) The sheet should be organized in the same order as the ballot, with sections for each office or question and the name of each candidate listed in the same order as they are listed on the ballot. There should be a space following each name/question for one of the counters to put a hash mark for each vote for that candidate/question.

Step #12 – Overview of the counting process: Each counting team will usually count all races and questions in one pile of 50 ballots at a time. A mark must be made on the tally sheet for each ballot for each office or question. Make a vertical line for the first four votes for any given candidate and then cross a horizontal line over the vertical lines for the fifth vote for that candidate. If the voter wrote in a candidate, that name must be written in on the tally sheet.

If the voter skipped a race or question, that is they did not vote for any candidate or did not mark either “yes” or “no”, put a hash mark in the “undervotes” line for that office on the tally sheet. If the voter overvoted, that is they voted for more candidates than they are permitted, put a hash mark in the “overvotes” line representing the number of choices the voter gave up by overvoting.

The objective will be that when the team is done counting the 50 ballot pile, there will be a hash mark for each voter choice, even if the choice is to not choose any option. The team will then total the votes for all candidates for each office and all the “yes,” “no,” write-ins, undervotes, and overvotes for each question. The total votes for a single seat office must equal 50 votes for that office (including the votes for each candidate, write-ins, undervotes and overvotes). For offices where the voter may vote to fill two positions (for example where the race is for state Representative where voters get to choose two), the total votes counted should total up to 100. For offices where the voter may vote to fill three positions, the total votes counted should total 150, and so on. If the total does not equal 50, the team should check their hash marks for that office/question and correct any errors. The team is done counting a 50 ballot pile at the point when the office/question totals equal 50.

If there is any question from a team regarding how a ballot should be counted, teams should call the moderator to their table and seek his or her instructions on how the ballot should be counted.

If a ballot is marked for any office or question in a way that does not leave the intention of the voter clear, or if after getting basic instructions on how different marks are counted from the moderator, there is disagreement among officials who are counting a particular ballot for a particular office, a vote should be taken of the election officers present and counting votes. RSA 659:64. The moderator should call together the election officers, discuss the ballot in question and take a vote on the intent of the voter. The majority rules, and if no alternative receives a majority of the votes, the ballot shall be treated as defective and counted as an overvote for that office or question.

If there are many questioned ballots that need to be voted on, the moderator may choose to hold these ballots aside and vote on several at one time. If this is done, however, it is the best practice that all questionable ballots be voted on before the team totals are tallied up. This ensures that the election officials do not know whether the vote on a particular ballot will affect the outcome of the election. This process reinforces the neutrality and enhances the legitimacy of the counting process.

Step #13 – Starting with the first office on the ballot, one counting team member (the reader) should read off the name of the candidate (the word “yes” or “no” for questions) who received the vote on the ballot being counted. The second member of the ballot counting team (the marker) should make a hash mark beside that name on the ballot. If the moderator can staff each team with three counters, the third counting team member (the observer) should look at the ballot and ensure that the correct name was read off and should watch the hash mark being made to ensure it is made in the correct row.

Step #14 – The reader then reads off the name of the candidate in the second office who received the vote on the ballot being counted, the marker should then make a hash mark on the tally sheet in the appropriate row, which is checked by the observer. Continue this process until the entire ballot has been marked on the tally sheet. Then proceed to the next ballot.

If a voter has not voted for any candidate for a particular office, the reader should state “undervote” and the marker should mark the “undervote” row for that office on the tally sheet.

If the voter voted for two or more candidates for an office where the ballot instructs to vote for one, the reader should read off “one overvote” and the marker should mark the “overvote” row on the tally sheet. If the instructions are that a voter should vote for two and the voter voted for three or more, the reader should read off “two overvotes.”

Step #15 – When all 50 ballots have been marked on the tally sheet, the hash marks should first be totaled for each candidate including the write-ins, undervotes and overvotes and then for each

office. The total votes for each office/question should equal 50. If they do not equal 50, go back through the pile and correct any counting/marking errors.

Step #16 – Bind the pile of ballots with the tally sheet on top with a rubber band or clip and notify the moderator that he or she can pick up that pile.

Step #17 – Start the process over with the next pile of 50 ballots.

Step #18 – The moderator should designate some election officer or recruit a voter who routinely works with numbers, e.g. the town treasurer, a local CPA, accountant, or math teacher, to tally the piles. Ideally a second election officer will assist and act as observer for this tallying process. Usually these individuals do not work on a counting team. As each team completes a pile of 50 ballots and has confirmed the accuracy of the count, the moderator can carry the pile to the team who will be tallying the piles.

Step #19 – When the last pile(s) have been counted and turned into the team that is tallying the piles the moderator should ensure that these officials have peace and quiet to finish the tallies. The tallying must occur in public. However, when all the election officers and counters gather at the tallying table and watch the final calculations, it puts pressure on those making the final calculations and makes errors more likely. The tallying team should tally the results for all elections. The use of a printing calculator or an Excel spreadsheet allows the team or the moderator to check the printed tape or spreadsheet as a means of ensuring the accuracy of the tally. The final tallies should be written down and presented to the moderator.

Step #20 – The moderator should stop before announcing the results and check the final tallies. If a count was done of the total number of persons checked off as having voted on the checklist the tallies for each office and question should be verified against that count. In towns or wards with thousands of ballots and thousands of voters checked off on the checklist, the moderator should be looking for any significant discrepancies between the totals. It is difficult to get a perfect count from the checklist, therefore, it is not essential that the total count for each office or question exactly match the vote totals. Provided the write-ins, undervotes and overvotes were tallied, the totals from one office to the next should be the same. If any discrepancies are found the moderator should investigate and attempt to resolve the discrepancy before declaring the results.

MODERATOR'S WORKSHEET

Reconciling Votes, Voters, and Ballots Cast

FOR GENERAL ELECTION OR _____ PARTY PRIMARY

Moderators are required to submit this worksheet to their town or ward clerks within 48 hours of the closing of the polls (RSA 659:73). It is the moderator's job to ensure that votes are accurately counted (RSA 659:60). **For the State Primary Election, you must complete one form per party.**

Town or City: _____ Ward: _____ County: _____

Moderator: _____ Clerk: _____

PART I.

The first part of the reconciliation process consists of **four separate tallies**: (A) Ballots Cast (Inventory), (B) Voter Participation Tallied at Check-In, (C) Voter Participation Tallied at Check-Out/ Ballots Cast Tape, and (D) Hand Count of Ballots Cast. Ideally, these **four counts should result in the same number** of ballots cast and voters participating (In the end, **TOTAL A = TOTAL B = TOTAL C = TOTAL D = TOTAL Count of Votes in Contests (from Part II)**). While we recognize that errors may occur which could result in small differences in the four Part I totals, Moderators are urged to **carefully consider** these tally numbers **before finalizing results** on election night. Either do further work to resolve/reduce differences or finalize the results knowing the differences exist. Announce the differences when announcing the results. This allows those considering requesting a recount to know what differences exist.

A. BALLOT INVENTORY

(1) Official Election Day Ballots Received from Secretary of State, excluding ACCUVOTE device test ballots
(You may enter this same number on the "**Moderator's Certificate**") (1) _____

(2) SUBTRACT Spoiled (cancelled) Official Election Day Ballots
(You may enter this same number on the "**Label for Resealing Ballots**") - (2) _____

(3) SUBTRACT Uncast (not used) Official Election Day Ballots
(You may enter this same number on the "**Label(s) for Resealing Ballots**") - (3) _____

(4) ADD Photocopy or absentee ballots **CAST** as Official Election Day Ballots
(These are the **substitute ballots** used if the polling place runs out of Election Day Ballots.) + (4) _____

(5) **Total Number of Ballots Cast by ELECTION DAY voters** (Calculate 1 through 4) =

(6) State Absentee Ballots Cast (6) _____

(7) ADD Federal Office Only and State Write-In Absentee Ballots Cast + (7) _____

(8) ADD other full (UOCAVA) Absentee Ballots Cast + (8) _____

(9) **Total Number of Ballots Cast by ABSENTEE voters** (ADD 6, 7, and 8) =

(10) **Grand Total Number of Ballots Cast (Using Inventory)**(ADD boxes 5 + 9) = **TOTAL A**

You may enter this same number on the "**Label(s) for Resealing Ballots**" **Note: Each box label should reflect the accurate number of all ballots contained within the box or a statement the number accounts for ballots placed into several boxes, listing the box numbers placed on the label.**

B. VOTER PARTICIPATION TALLIED AT CHECK-IN

Number of voters **marked as having voted** on the **CHECK-IN** checklist
(ALL Election Day voters and ALL Absentee voters) = **TOTAL B**
=====OVER=====

C. VOTER PARTICIPATION TALLIED AT CHECK-OUT

<u>HAND COUNT TOWNS ONLY</u>	<u>MACHINE COUNT CITIES/TOWNS ONLY</u>
Number of voters marked as having voted on the CHECK-OUT checklist (ALL Election Day and ALL Absentee voters) TOTAL C = 	Total Ballots Cast (Quantity) from the ACCUVOTE Long Results Tape election results tape _____ ADD Number of ballots that were NOT counted by the ACCUVOTE (see Note below) + _____ <p align="center">TOTAL C = </p> (Note: These ADDED ballots are ONLY those Ballots that were counted by hand and did NOT pass through the ACCUVOTE counting device. Do NOT include ballots simply because they had write-in votes.)

D. HAND COUNT OF BALLOTS CAST

You may hand count the total number of ballots cast . TOTAL D (Total number of ballots listed on your Label(s) for Resealing Ballots, adding number in each Box together if the number in each box is individually counted.)	
---	---

PART II. VOTES IN CONTESTS IN THE PRIMARY OR GENERAL ELECTION

Compare the ballots cast (**TOTALS A, B, C, and D**) from PART I of this form) with the total **votes** cast from the “**Election Night Reconciliation Form**” separately for two or more offices/questions. If there are any significant discrepancies, please ask your election team to carefully review their tallies.

It is important to **resolve discrepancies on election night before announcing results** and avoid errors which, for example, may indicate more votes tallied in a particular contest than total ballots cast.

TALLY CATEGORY	TOTAL Votes, Voters, or Ballots Cast
TOTAL A – Ballots Cast (Using Inventory) (from Grand Total on reverse side)	
TOTAL B -- Voters at Check-in (from reverse side of this form)	
TOTAL C -- Voters at Check-out/Ballots Cast Tape (from this side of form)	
TOTAL D – Hand Count of Ballots (from this side of form)	
TOTAL COUNT OF VOTES in CONTESTS (GRAND TOTAL of Votes cast for Governor, U.S. Senate or U.S. Rep in Congress, from Candidates Return of Votes, including write-in votes, undervotes and overvotes for that office. You may use the Election Night Reconciliation Form for each office you select for reconciliation.)	

These **five** numbers above **should all be equivalent**. Significant differences may indicate a tallying error. Announce the differences when announcing the results. This allows those considering requesting a recount to know what differences exist.

Attest: _____
Signature of Moderator

Date: _____

2022



State of New Hampshire 2022 State Primary Election Names on Checklist RSA 659:73

Names on Checklist (NOC) Worksheet

Use this Worksheet to help you complete the Official Names on Checklist Form

	REP	DEM	UND	TOTAL
1) Enter the number of voters by party on the last page of the checklist.			=	*
2) Enter the number of persons who registered to vote at the polling place by party affiliation.	+	+	+	= *
3) Enter the number of Undeclared voters who declared a party and then voted. Count from the checklist all UND voters who took a REP or DEM ballot and place those numbers in correct column. The UND Column, in this row, should equal the total of the REP & DEM column in this line (3)	+	+	-	= 0
4) Enter the number of Undeclared voters that declared a party when voting and returned back to Undeclared (From the Undeclared Voter Re-registration checklist list or individual forms with voter signatures.) The UND Column, in this row, should equal the total of the REP & DEM column in this line (4)	-	-	+	= 0
5) TOTAL number of voters at the end of the election by party affiliation.	*	*	*	= *

Contact the Help Desk at 271-8241 for help with the above worksheet.

Notes:

- 1) Apply + and - signs to numbers you have entered, when completing a sum either going down or across.
- 2) Lines 3 & 4 when summed across, should equal zero.
- 3) * Line 5 total of REP, DEM & UND across should equal the sum of the "Total" column going down.

Town or City _____ Ward ____ County _____

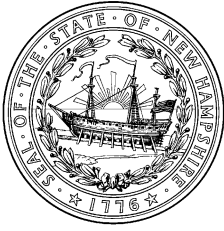
Attest: _____

Signature of Town/Ward Moderator

7/18/2022

PLEASE SUBMIT NO LATER THAN SEPTEMBER 15, 2022

Fax: 271-8242 email: nhvotes@sos.nh.gov



2022 STATE PRIMARY ELECTION

SEPTEMBER 13, 2022

NAMES ON CHECKLIST

RSA 659:71-75

- 1. Number of persons who registered to vote at the polling place on State Primary Election Day by party: (Use numbers from Names on Checklist Worksheet #2)

REPUBLICAN _____ DEMOCRATIC _____ UNDECLARED _____

- 2. Number of undeclared voters declaring a party and then voting on State Primary Election Day: (Use numbers from Names on Checklist Worksheet #3)

Republican _____ Democratic _____

(Count from the marked checklist at the end of election day those undeclared voters who chose a party ballot.)

- 3. Number of undeclared voters declaring a party and then voting on State Primary Election Day who returned to undeclared status before leaving the polling place _____ (Use numbers from Names on Checklist Worksheet #4)

(Count the number of completed return-to-undeclared forms or signatures on the "Undeclared Voter Re-Registration" report at the end of election day.)

- 4. The following figures are the total number of registered voters after the polls have closed AND AFTER the Supervisors of the Checklist have changed OR who will be changing on the checklist, those voters who wish to return to undeclared, who completed the necessary forms before leaving the polling place. (Use numbers from Names on Checklist Worksheet #5)

Total Number of Registered REPUBLICANS on Checklist _____

Total Number of Registered DEMOCRATS on Checklist _____

Total Number of UNDECLARED Names on Checklist _____

GRAND TOTAL of Names on Checklist (sum of THREE numbers above) _____

Town/City (Ward) of _____ County _____

Attest:

Signature of Moderator

(Fax to SECRETARY OF STATE'S OFFICE no later than 5:00 p.m. September 15, 2022)

FAX to: 271-8242 or email to: nhvotes@sos.nh.gov



State of New Hampshire 2022 State General Election Names on Checklist RSA 659:73

Names on Checklist (NOC) Worksheet

Use this Worksheet to help you complete the Official Names on Checklist Form
Please return this worksheet with your Official form

	REP	DEM	UND	TOTAL
1) Enter the number of voters by party on the last page of the checklist.				= *
2) Enter the number of persons who registered to vote at the polling place by party affiliation.	+	+	+	= *
3) TOTAL number of voters at the end of the election by party affiliation.	*	*	*	= *

Contact the Help Desk at 271-8241 for help with the above worksheet.

Notes:

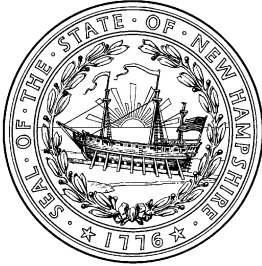
- 1) Apply + and - signs to numbers you have entered, when completing a sum either going down or across.
- 2) * Line 3 total of REP, DEM & UND across should equal the sum of the "Total" column going down.

Town or City _____ Ward ____ County _____

Attest: _____
Signature of Town/Ward Moderator

7/18/2022

PLEASE SUBMIT NO LATER THAN NOVEMBER 10, 2022
Fax: 271-8242 email: nhvotes@sos.nh.gov



2022 STATE GENERAL ELECTION
NOVEMBER 8 2022
NAMES ON CHECKLIST
RSA 659:71-75

1. Number of persons who registered to vote at the polling place on State General Election Day by party:
(Use numbers from Names on Checklist Worksheet #2)

REPUBLICAN _____ DEMOCRATIC _____ UNDECLARED _____

2. The following figures are the total number of registered voters after the polls have closed, which include those on the checklist used at the election and those who registered to vote on election day.

(Use numbers from Names on Checklist Worksheet #3)

Total Number of Registered **REPUBLICANS** on Checklist _____

Total Number of Registered **DEMOCRATS** on Checklist _____

Total Number of **UNDECLARED** Names on Checklist _____

GRAND TOTAL of Names on Checklist (sum of THREE numbers above) _____

Town/City (Ward) of _____ County _____

Attest:

Signature of Moderator

(Fax to the SECRETARY OF STATE'S OFFICE no later than 5:00 p.m. on November 10, 2022)
Fax to: 271-8242 or email to: nhvotes@sos.nh.gov

Votes in a Contest – Election Night Reconciliation Form

Instructions

Use this form to conduct a reconciliation of a selected office or question. Ideally reconcile two or more offices / questions. Choose contested races or questions because the reported results will be closely scrutinized. The objective of this reconciliation step is to determine if the initial results appear accurate in light of the number of ballots cast and the number of voters marked on the checklist as having voted. Use a separate form for each office or question reconciled.

This will compare:

1. The number of **Votes Received** by candidates, including write-ins, overvotes, and undervotes for that office;

From the Moderator's Worksheet

2. The number of **Ballots Cast** (A. Ballot Inventory and D. Hand count of ballots cast);
3. The number of **Voters** marked as voting (B. Voter Participation – Check-in & C Voter Participation – Check-out/Ballot counting Device quantity from results tape + hand counted ballots)

Ideally the totals from all sources will be equal. If the totals are not equal assess whether the difference helps identify a counting or calculation error. Conduct further review of the results to attempt to resolve the difference. If the difference cannot be resolved, describe the difference when publicly announcing the results.

Not all differences can be resolved on election night. If the difference is small, it may not leave the outcome of the election (who was elected) in doubt. Knowledge of the difference may be important to candidates as they decide whether to seek a recount.

An excel version of the form is available from NHVotes@sos.nh.gov

RECOUNT PROCEDURES CHART

Type of Election	Petitions	To Whom and How Initiated	Application Dead-line	Fees Minimum * (Fees increase as the vote difference between the applying candidate and candidate declared winner increases. RSA 660:2)	Who Shall Conduct
State General Election RSA 660:1-6 State Primary Election – Same RSA 660:7 – 9.	None Required	Secretary of State; Apply in Writing; In the general election, the difference between votes cast for the applying candidate and the candidate declared elected must be less than 20% of total votes in the towns which comprise the office to be recounted. RSA 660:1. In the state primary election, the difference between votes cast for the applying candidate and the candidate declared nominated must be less than 10 votes or less than 1.5 % of the total ballots cast in the primary for that party in the towns which comprise the office to be recounted. RSA 660:7. If difference in votes between candidate and winner is greater than 3%, candidate must pay the full expense of the recount. RSA 660:2, IV.	No later than the Friday ** following the State Primary Election and the Friday following the General Election	When the difference is less than 1 percent of the total votes cast in the towns which comprise the office to be recounted, fees are, by office: Governor \$500 U.S. Senator \$500 U.S. Representative \$250 Exec. Councilor \$100 State Senator \$50 County Officer \$50 State Representative \$10	Secretary of State
City Election	Consult City Charter				
Annual Town Meeting RSA 669:30-32.	None Required	Town Clerk; Apply in Writing	No later than the Friday following the election	Vote difference between winner and candidate requesting is, as a percent of the total votes cast: Less than 1% \$10 Between 1 and 2% \$20 Between 2 and 3% \$40 Greater than 3% \$40 plus any additional costs of recount	Board of Recount (Clerk, Moderator, Selectmen) RSA 669:32.
Annual or Special Meeting –Any Referendum Question	10 legal voters	Town Clerk; Apply in Writing	Within 7 days of meeting	\$10	Board of Recount (Clerk, Moderator, Selectmen)

Type of Election	Petitions	To Whom and How Initiated	Application Dead-line	Fees Minimum * (Fees increase as the vote difference between the applying candidate and candidate declared winner increases. RSA 660:2)	Who Shall Conduct
RSA 40:4-c					
School Districts – Officers by Official Ballot RSA 671:32	Not Required	School District Clerk; Apply in Writing	No later than the Friday following the election	Vote difference between winner and candidate requesting is, as a percent of the total votes cast: Less than 1% \$10 Between 1 and 2% \$20 Between 2 and 3% \$40 Greater than 3% \$40 plus any additional costs of recount	Board of Recount (School District Moderator, Clerk, School Board)
Constitutional Amendments RSA 660:10; RSA 660:11	100 voters if question passes or fails by 1%; no provision for recount if question passes or fails more than 1%	Secretary of State by petition	No later than the 4th Friday following the election.	None	Secretary of State
County Referendum RSA 660:12	50 voters of the county	Secretary of State by petition	No later than the 2nd Friday following election	\$25 paid by person by whom petition is submitted	Secretary of State
Local Questions on state ballot. (Sweepstakes, Liquor, etc.) RSA 660:13 – 15.	5 voters of city or town	Secretary of State by petition	No later than the 2nd Friday following the election	\$10 per 1000 votes, not to exceed \$50.	Secretary of State

Fees increase as vote difference between the applying candidate and candidate declared winner increases. RSA 660:2

** A candidate who has requested a recount after a primary may withdraw the request on the Monday after the primary. RSA 660:7

SUMMARY OF RULES
OF PROCEDURE FOR RECOUNTS

RSA 660

(Sort and Stack Method)

1. The Board of Recount will operate with two-person teams for recounting.
2. For each two-person team, each candidate may have one observer.
3. Each candidate will be informed as to how many two-person teams will be conducting his/her particular recount.
4. No observer will use pencil or pen while sitting at the recount table.
5. Observers are prohibited from touching the ballots.
6. The ballots counted for each candidate are put in stacks of 25 -- and counted by each worker.
7. If there is a protest of any ballot, it must be made immediately and the Moderator will rule on such protest. If the Moderator's decision is protested, the Board of Recount will rule. If further protest is made, the Board of Recount will attach a sequentially numbered statement of fact to the protested ballot listing for which candidate or question (Yes or No) the ballot was counted. The ballot with the attached statement will be preserved separately to be available to the court if there is an appeal.
8. The candidate who requested the recount may cancel the recount at any time during the procedure, at which time the Moderator will publicly announce the candidate's request to cancel the recount and that particular recount will cease at once. The election night result will remain the final result.
9. The Board of Recount will maintain a tally sheet showing the recount results and at the completion of a recount will announce the official winner based on the recount figures.
11. At the end of each recount, if the contestant wishes to appeal further, he/she may do so to the Superior Court under the terms of RSA 669:35.
12. NO SMOKING in recount areas.
13. NO CELL PHONES in recount areas.

SUMMARY OF RULES
OF PROCEDURE FOR RECOUNTS

RSA 660

(Read and Mark Method)

1. The Board of Recount will operate with two-person teams for recounting.
2. For each two-person team, each candidate may have one observer.
3. Each candidate will be informed as to how many two-person teams will be conducting his/her particular recount.
4. No observer will use pencil or pen while sitting at the recount table.
5. Observers are prohibited from touching the ballots.
6. Each team will count a stack of 50 ballots at one time. One member of the two-person team will read the ballot declaring those legal votes apparent from the voter's marks. The second member will place a mark on his/her tally sheet for the candidate(s) receiving a vote. After all the ballots have been read, the totals for each candidate for the town or ward will be determined by adding the marks recorded. The team will verify that the results reflect the appropriate number of votes, including overvotes and undervotes, for 50 ballots.
7. If there is a protest of any ballot, it must be made immediately. The Moderator will rule on such protest. If the Moderator's decision is protested, the Board of Recount will rule. If further protest is made, the Board of Recount will attach a sequentially numbered statement of fact to the protested ballot listing for which candidate or question (Yes or No) the ballot was counted. The ballot with the attached statement will be preserved separately to be available to the court if there is an appeal.
8. The candidate who requested the recount may cancel the recount at any time during the procedure, at which time the Moderator will publicly announce the candidate's request to cancel the recount and that particular recount will cease at once. The election night result will remain the final result.
9. Once a town or ward is to be recounted, it shall be completed by the particular team or teams involved before starting another precinct.
10. The Board of Recount will maintain a tally sheet showing the result of the recounts and at the completion of a recount will publicly announce the official winner based on the recount figures.
11. At the end of each recount, if the contestant wishes to appeal further, he/she may do so to the Superior Court under the terms of RSA 669:35.
12. NO SMOKING in recount areas.
13. NO CELL PHONES in recount areas.

XXIX. ORDER OF CANDIDATES

ORDER OF NAMES ON BALLOT

Order of Names on Ballots pursuant to RSA 656:5-a (Effective from June 15, 2022 through June 2024)				
# of Candidates	# drawn for start of rotation of names			
2	2			
3	1	See sample below		
4	2			
5	1			
6	1			
7	7			
8	7			
9	2			
10	6	See sample below		
11	3			
12	3			
13	8			
14	11			
15	4			
16	5			
17	7			
18	18			
19	19			
20	18			
<p>EXAMPLES: <i>If you have 3 candidates for an office, place your candidates in alphabetical order by surname:</i></p> <ol style="list-style-type: none"> 1) Martha Jones 2) Larry Smith 3) John Zorro <p>Since the number 1 was drawn for 3 filed candidates, they would be listed on the ballot with the first candidate listed first.</p> <ol style="list-style-type: none"> 1) Martha Jones 2) Larry Smith 3) John Zorro <p><i>If you have 10 candidates for an office, since the number 6 was drawn for 10 filed candidates, place your candidates in alphabetical order by surname.</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> Order of Names on Ballot <ol style="list-style-type: none"> 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro </td> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French </td> </tr> </table>			Order of Names on Ballot <ol style="list-style-type: none"> 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 	<ol style="list-style-type: none"> 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French
Order of Names on Ballot <ol style="list-style-type: none"> 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 	<ol style="list-style-type: none"> 6) Candy Lozenge 7) Susan North 8) Joseph Smith 9) Jean Thompson 10) John Zorro 1) Jane Adams 2) Bruce Brown 3) John Curtis 4) Adam Dean 5) Frank French 			



STATE OF NEW HAMPSHIRE
Nomination Paper
(For State General Election)
RSA 655:40 – 45)

CANDIDATE SECTION: The following candidate requests that his or her name be placed upon the official ballot to be used at the **November 8, 2022** state general election.

Candidate's Name _____

Candidate's Domicile _____
(street) (town or city) (ward) (zip)

For the Office of _____ District No. _____

Political Organization/Principles represented by Candidate: _____

VOTER SECTION: I hereby certify that I am a registered voter in the town or city (ward) below. *RSA 655:40 states that "No voter shall sign more than one nomination paper for each office to be voted for."*

Print Voter's Name _____ Date: _____

Voter's Signature _____

Voter's Domicile _____
(street address) (town or city) (ward)

Voter's Mailing Address _____
(street address) (town or city) (ward)

CERTIFICATE OF SUPERVISORS OF THE CHECKLIST

The undersigned, a **MAJORITY** of the **SUPERVISORS OF THE CHECKLIST** (or Registrars of Voters), hereby certify that the voter signing this nomination paper is a registered voter in the town/ward of

The signer of this paper is **NOT** a registered voter in this town or ward Date _____

RSA 655:41, II. The city clerk may certify that the signer is a registered voter, if in a city.

Filing Deadlines:

August 10, 2022 – Last day to submit signed nomination papers to Supervisors of the Checklist in town or city

August 31, 2022 – Supervisors must have nomination papers certified for candidates and organizations

September 7, 2022 – Last day to file certified nomination papers with Secretary of State's Office

Nomination by Nomination Papers

655:40 General Provisions. As an alternative to nomination by party primary, a candidate may have his or her name placed on the ballot for the state general election by submitting the requisite number of nomination papers. Such papers shall contain the name and domicile of the candidate, the office for which the candidate is nominated and the political organization or principles the candidate represents. Nomination papers shall be signed by such persons only as are registered to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter shall sign an individual nomination paper. *Nomination papers shall be dated in the year of the election.*

655:41 Certification. I. Each nomination paper shall be submitted to the supervisors of the checklist of the town or ward in which the signer is domiciled or is registered, and a majority of the supervisors shall certify whether or not the signer is a registered voter in said town or ward. The **supervisors of the checklist** shall certify nomination papers under this section in a timely fashion, so that their certification shall be complete for each candidate, together with any objections to the nomination papers submitted, no later than 5:00 p.m. on the Wednesday 2 weeks before the primary (**August 31, 2020**). Each nomination paper shall be submitted to the supervisors of the checklist no later than 5:00 p.m. on the Wednesday 5 weeks before the primary (**August 10, 2022**)

II. The city clerk may perform the responsibilities of the supervisors of the checklist under this section.

655:42 Number. I. It shall require the names of 3,000 registered voters, 1,500 from each United States congressional district in the state, to nominate by nomination papers a candidate for president, United States senator or governor.

II. It shall require the names of 1,500 registered voters registered in the district to nominate by nomination papers a candidate for United States representative; 750 to nominate a candidate for councilor or state senator; and 150 to nominate a candidate for state representative or county officer.

III. It shall require the names of registered voters equaling 3 percent of the total votes cast at the previous state general election to nominate by nomination papers a political organization.

655:43 Filing Deadline. I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the Wednesday one week before the primary (**September 7, 2022**). Nomination papers to be filed shall be grouped by municipality. No nomination papers shall be accepted by the secretary of state unless the candidate shall have met the age and domicile qualifications for the office he or she seeks at the time of the general election and meets all the other qualifications at the time of filing; and if a candidate for the office of governor, executive councilor, state senator, or state representative, unless the candidate shall file with the nomination papers an affidavit of qualifications as provided for in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless the candidate shall meet the qualifications for office under RSA 655:3 and 655:4.

II. No candidate who intends to run for any state or federal office in the state general election by means of nomination papers shall have his or her name placed on the ballot unless the candidate files a declaration of intent, as provided in RSA 655:17-a or 655:17-b, within the filing deadline required by RSA 655:14-a (**June 1-10, 2022**). Any person who files on the last day of the filing period must do so in person before the secretary of state.

III. No political organization shall have the names of its candidates placed on the ballot unless the chairman of the organization files a declaration of intent, as provided in RSA 655:17-c, within the filing deadline for candidates established in RSA 655:14-a.

IV. No person who filed as a candidate in the state primary election shall be eligible to have his or her name placed on the ballot for the state general election by submitting nomination papers as provided in this subdivision.

655:44 Objections. Nomination papers made in accordance with the provisions of this chapter shall be regarded as valid and shall be received by the secretary of state unless objection thereto is made in writing no later than the Monday following the last day for the filing of such papers.

655:45 Nomination Papers Protected. No person shall falsely make or file or knowingly deface or destroy any nomination paper, or any part thereof, or sign any nomination paper contrary to the provisions of law knowing the same, or any part thereof, to be falsely made or suppress any nomination paper, or any part thereof, which has been duly filed. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or be guilty of a felony if any other person.

XXX.UNDECLARED VOTERS

A previously registered undeclared voter may sign this form to change party affiliation back to undeclared after voting on primary day. A person who registers undeclared on election day and then affiliates with and votes on the primary ballot of a party may return to undeclared using the form "Undeclared Voter Re-registration" printed from *ElectioNet*. The generic example below has an arrow showing where the voter signs.


Where there are a significant number of undeclared voters, the *ElectioNet* report used to create this form will list several voters on each page. The pages can be organized in a three ring binder for ease of use and to ensure the forms are kept together. If the number of undeclared voters warrants doing so, you may want to use several binders, each containing a section of the alphabet.

To print this report go to *ElectioNet*: Activities -> Reports -> Elections -> Return to Undeclared for Primary


07/11/2022 Page 1
Generated By : HD-
DUNGER

Undeclared Voter Re-Registration - DIX'S GRANT
Election Date-Name: 2022-09-13--STATE PRIMARY ELECTION
"I hereby request that my political party be changed from Party Choice to Undeclared."
signed under the pains and penalties of perjury. (per RSA 654:34)

Ward: 00

Name	Residence Address	Circle Party Chosen	Voter ID	Barcode	Signed under the pains and penalties of perjury
LAST NAME, FIRST NAME	1 NO ADDRESS DIX'S GRANT	DEM REP	300691625		

Total Voters: 1
Grand Total Voters: 1



Voters who register on election day as Undeclared may sign the form on the following page after they have declared a party and cast their ballot in the primary election. This will allow the voter's party to be returned to the Undeclared status after the election voting history has been scanned.

To print forms from *ElectioNet* go to:
 Inquiries->Help->Instructions>Return to Undeclared Template - 2022

Voter ID # _____

UNDECLARED VOTERS
ELECTION DAY PARTY AFFILIATION CHANGE FORM

Name (Print) : _____

Address: _____

I hereby request that my political party registration be changed as follows:

FROM: Democrat [] or Republican []

TO: Undeclared []

Signed under the pains and penalties of perjury.

SIGNATURE: _____

DATE: _____

Voter ID # _____

UNDECLARED VOTERS
ELECTION DAY PARTY AFFILIATION CHANGE FORM

Name (Print) : _____

Address: _____

I hereby request that my political party registration be changed as follows:

FROM: Democrat [] or Republican []

TO: Undeclared []

Signed under the pains and penalties of perjury.

SIGNATURE: _____

DATE: _____

XXXI. RETENTION AND PRESERVATION OF ELECTION MATERIALS

(RSA 33-A:3-a)g

	Retained by	Period of Retention
Elections		
Federal or state elections: ballots, absentee ballot applications, affidavit envelopes, lists, and Challenged Voter Affidavits	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer
Local elections: ballots, absentee ballot applications, affidavit envelopes, and lists.	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 60 days after the election, whichever is longer
Local elections: Challenged Voter Affidavits	City or Town Clerk (Unless requested by the Secretary of State – RSA 659:99)	until the contest is settled and all appeals have expired or at least 22 months after the election, whichever is longer
Checklist		
Marked copy	by the town clerk	7 years
Voter Registration		
Forms, including the Voter Registration Form and absentee voter registration forms	by town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Same day, returned to undeclared status, form and report from statewide centralized voter registration database	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Party change form	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Forms, rejected, including absentee voter registration forms, and denial notifications	by the town/city clerk securely in a municipal office *	7 years
Qualified Voter Affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Domicile Affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Overseas absentee registration affidavit	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years

Absentee ballot voter application form in the federal post card application format, for voters not previously on the checklist	by the town/city clerk securely in a municipal office *	until voter is removed from checklist plus 7 years
Absentee ballot affidavit envelope for federal post card applicants not previously on the checklist	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Notice of removal, 30-day notice	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Report of death	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Report of transfer	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years
Undeliverable mail or change of address notice from the United States Postal Service	by the town/city clerk securely in a municipal office	until voter is removed from checklist plus 7 years

*Must be available to both clerk and supervisors of the checklist. RSA 654:13-a.

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