

950 CMR 53.00: VOTING AND COUNTING PROCEDURES FOR VOTING MACHINES

Section

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53.01: General Duties of Election Officers

(1) Election Officers Assigned to Each Polling Place. Each precinct must have assigned to it a warden, clerk and at least two inspectors (four in cities unless the clerk determines that fewer inspectors are needed), unless in a town where five or fewer precincts vote in the same building the selectmen decide otherwise under M.G.L. c. 54, § 24. In addition, precincts may have a deputy clerk, deputy warden, additional inspectors as are needed to run the election, and as many tellers as are necessary to count the votes after the election.

(2) Election Officers Must Represent Political Parties. Within each precinct, the election officers must equally represent the two leading political parties. However, two of the officers in each precinct may be unenrolled.

The warden and deputy warden must be from the same party and different from that of the clerk and deputy clerk. No more than half the inspectors may be from the same party.

Party representation requirements apply only if the chairman of the city or town committee of each political party or the chairman of the state committee of such party files with the registrars lists of enrolled members of the party who desire appointment as election officers under M.G.L. c. 54, §§ 11B, 12 and 13.

(3) Warden: General Duties and Authority. The warden shall be the chief election officer at the polling place. The warden shall supervise the other precinct election officers before the polls open, during the election, and during the vote count. The warden is responsible for maintaining order and handling violations of election law by election officers or others. The warden may use police assistance when necessary.

If the warden leaves, his deputy shall be in charge, but if there is no deputy, he may designate a qualified election officer to be in charge.

(4) Clerk: General Duties. The election clerk shall keep a record of all facts relating to the proceedings of the election required by law to be recorded. The clerk shall note any unusual happenings such as challenged votes or ballots and inoperative machines during the conduct of the election. The clerk is responsible for maintaining the Election Record, filling out forms and adding vote totals for each candidate on the total tally sheet. The clerk shall read and record the voting machine protective counter, and check the public counter, before and after the election.

(5) Inspectors: General Duties. Inspectors shall be assigned to duties by the warden. Two election officers of different political parties shall be assigned to the check-in area at the entrance to the voting area. Party representation requirements may not apply under 950 CMR 53.01(2).

(6) Voting Machine Custodians. Voting machine custodians shall be in charge of the preparation and upkeep of voting machines. They shall be in charge of setting up the voting machine prior to the opening of the polls. If they are requested by the warden to make repairs or adjustments during the election they must make the repair in the presence of at least two election officers.

53.02: Before the Polls Open

(1) Election Officers Report to Polling Place. All election officers must report to work at the polling place at a time to be determined by the city or town clerk, so as to be able to complete all preliminary work and to allow the polls to open on time. They must be sworn in before beginning to work. They shall open the polling place on time.

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- (2) Replacement of Election Officers. If an election officer assigned to a polling place fails to appear or leaves, the city or town clerk shall be notified. Replacements shall be sent, or the corresponding deputy election officer shall be designated as the replacement.
- (3) Arrange The Polling Place. The voting machines, the receptacle or receptacles for the voting authority certificates and the ballot box must be in full view at all times. A guard rail shall be established to prevent unauthorized people from interfering with people who are voting.
- (4) Signs To Be Posted. The following items shall be posted in a conspicuous place inside the polls but outside the guard rail:
 - (a) Three specimen ballots (for each party in primaries).
 - (b) three "Instruction To Voters" cards
 - (c) three "Penalties Upon Voter" cards
- (5) Set Up Check-In Table. The voting list and the voting authority certificates shall be placed on the check-in table at the entrance. There shall be enough certificates for all registered voters in the precinct. At the biennial state election, copies of the official information for voters pamphlet, at least one for every hundred registered voters in the precinct, shall be available to voters at the check-in area.
- (6) Election Officers. The warden shall appoint two election officers of different parties to be stationed at the entrance to the voting area. Two other election officers of different parties may receive the voting authority certificates and deposit them in the receptacle when escorting the voter to a machine.
- (7) Keys To The Machines. The city or town clerk shall deliver to the warden the keys to each voting machine in the precinct in separate sealed envelopes at least half an hour before the polls open on the day of the election. The number and location of the precinct, the number of the voting machine, the number of the seal which seals it, and the number that is registered on the protective counter shall be on this envelope.
- (8) Check the Envelope with the Machine. At least one election officer from each political party must examine the envelope, check the number on the seal of the machine at this time if it is an outside seal, and after opening the machine if it is an inside seal, and compare it with the number on the envelope. The number on the protective counter must also be compared with that number entered on the envelope.
- (9) If the Numbers Don't Agree, Notify the Town or City Clerk. If the numbers on the envelope do not correspond with those on the machine then the city or town clerk must be notified.
- (10) Open the Front of the Machines to Set Up Voting Booth.
- (11) Check That The Machines Have The Proper Voting Machine Strips. Election officers shall check the ballot strips on the machines against a specimen ballot to see that they are correct. If they do not correspond, the warden shall call the city or town clerk. The machine shall not be used until the correct ballot strips are inserted.
- (12) Examine the Write-In Roll. An election officer shall open the slot or door and shall examine the write-in roll to ensure that it has been marked either with a red strip or a signature, and dated. If not, the election officer shall so mark it.
- (13) Check Counters.
 - (a) AVM Printomatic Machines.
 1. Check Vote Counters. The crank shall be turned to print the numbers recorded on the vote counters. All the vote counters should read zero.

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2. Pull Out the Proof Sheet. An election officer shall pull out the proof sheet. When the proof sheet is pulled out, at least two election officers of different political parties shall examine the sheet to see that all vote counters and the inside public counter read zero and that the proper machine number is on the sheet. Candidates or their representatives authorized in writing shall be allowed to check the numbers within one half hour before the polls open.
 3. Keep the Proof Sheets. The warden and clerk shall examine, sign and date the proof sheets.
- (b) AVM Non-Printomatic Machines.
1. Open the Rear of the Machines to Expose the Vote Counters.
 2. Check Counters. At least two election officers of different political parties shall check the counters to be used in the election to see that they all read zero. Candidates or their representatives authorized in writing shall be allowed to check the counters within one half hour before the polls open.
 3. An Election Officer Shall Close and Lock the Rear of the Machine.
- (c) Shoup Voting Machines.
1. Check Counters. The machines shall have their candidate and question counters exposed when they are delivered to the polls. At least two election officers of different political parties shall check to make certain the counters are all on zero. The counters are located at the front of the machine under the candidate's name or question. Candidates or their representatives authorized in writing shall be allowed to check the counters within one half hour before the polls open.
 2. Close the Candidate and Question Counters. After all the candidate and question counters are checked, election officers shall close and lock the voting machine.
- (d) Direct Electronic Voting Machines.
1. An election officer shall cut the seal and remove it from the machine.
 2. An election officer shall open the write-in slot exposing the paper tape. The election officer shall cause the vote tabulator to print a listing of all candidates and questions in the order they appear on the ballot. At least two election officers of different political parties shall examine the tape to see that there are no votes already on the vote tabulator for each candidate and question.
 3. An election officer shall pull the tape out of the machine. Two election officers who observed the printing of the tape must sign their initials at the bottom of the tape and record the date. Candidates or their representatives authorized in writing shall be allowed to view the printing of the tape within one half hour before the polls open.
 4. The tape shall be posted in a conspicuous place inside the polling place.
- (14) If the Counters Are Not on Zero, Record Information. If the public counter or any of the vote counters is not on zero, then the number and letter of the counter together with the number registered on the counter shall be recorded in the clerk's Election Record and signed by the election officers. If any counter cannot be reset to zero on a direct electronic voting machine, the warden shall call a voting machine custodian to service the machine.
- (15) Ballot Box Empty. The warden shall publicly open the ballot box and examine it. It shall be shown to be empty and the register set at zero to the satisfaction of all election officers and other persons present. The warden shall close and lock the ballot box.
- (16) Election Record. The clerk shall record in the election record:
- (a) the examination and condition of the ballot box,
 - (b) the register number on the ballot box before any ballots are cast, and
 - (c) the actual count of the absentee ballots received.
- (17) Ballot Box Key. The warden shall lock the box and shall give the ballot box key to the police officer. The officer shall keep the key until the polls close.
- (18) Ballot Box Locked. The ballot box must remain locked or sealed throughout the day.
- (19) Open on Time. The warden shall open the polls on time if necessary materials are available, even if some things usually done beforehand must be done after the polls open.

53.03: During the Voting Hours

(1) Ready Machines for Voting and Declare Polls Open. An election officer shall cut the seal and remove it from the machine if this has not already been done. An election officer shall activate the machine. The keys shall be sealed in their proper envelope and the envelope shall be placed in the protective custody of the warden or police officer. The warden shall declare that the polls are open.

(2) Who May Vote. Anyone whose name appears on the voting list shall be qualified to vote. The election officer shall check the supplementary voting list.

(3) Voter States Name and Address. The voter must announce his address and name to the election officer in charge of the check-in voting list.

(4) Look for the Name on the Voting List. The election officer shall find the name and shall repeat it loudly and clearly. If it is a primary, the officer shall announce the party as well.

(5) Name Dropped or Listed Incorrectly.

(a) Procedure. If the name, address, or party enrollment of a person claiming the right to vote does not appear on the voting list or is listed incorrectly, the presiding officer must communicate with the office of the registrars of voters to ascertain whether the person is entitled to vote. If the presiding officer or the registrars determine that the person is entitled to vote, the presiding officer shall complete the proper certificate, attach it to the voting list, and allow the voter to vote. If the presiding officer or the registrars are unable to make this determination, the presiding officer shall direct the person to the registrars' office. If the registrars then determine that the person is entitled to vote, the person may vote there immediately by absentee ballot, or may return with the certificate to vote at the polling place. The registrars or their agents shall orally inform each such person at their office of the opportunity to vote there. If a voter at a primary proves under 950 CMR 53.03 that his or her party enrollment is listed incorrectly, the voter shall be allowed to vote in the correct party's primary. Whenever a person is allowed to vote under 950 CMR 53.03(5) and M.G.L. c. 51, § 59, the registrars shall add the current name, address and previously established party enrollment of that person to the register of voters, without requiring further action by the person.

If the name, address, or party enrollment of a person claiming the right to vote appears on the voting list as an inactive voter, the presiding officer shall allow such inactive voter to vote upon written affirmation by the inactive voter of his current and continuous residence in the municipality, (or, at a state primary or state election, residence in the municipality within the previous six months,) signed under the penalties of perjury. Such written affirmation shall be attached to and be considered part of the voting list, returned and preserved therewith, and such inactive voter shall be restored to the active voting list at his current residence, without requiring further action by the person.

(b) Standard. The registrars must determine persons to be entitled to vote under 950 CMR 53.03 and M.G.L. c. 51, § 59 whenever such persons have registered to vote in that city or town in the past and affirm in writing, signed under the penalties of perjury, that they have continuously resided in the city or town (or, at a state primary or election, resided in the community within the past six months,) unless the registrars affirmatively establish, by evidence other than failure to respond to the street listing under M.G.L. c. 51, § 4, or failure to respond to a notice under M.G.L. c. 51, § 37, that the person has not in fact continuously resided in that city or town, (or, at a state primary or election, resided in the city or town within the past six months.) The written affirmation shall be on a form which must be available at the polling place stating: "I am currently a legal resident of (city or town), and have continuously been a legal resident here since (last date of ascertained registration). Signed under the penalties of perjury." For the purpose of ascertaining past registration, the registrars must check all available records for at least the previous three years.

If the inactive voter has moved within the city or town, the voter will write the address at which he or she last registered to vote, as well as his or her current address. The inactive voter will vote at the polling place which corresponds to his or her address as it appears on the inactive voting list. After the election, if the voter has moved within the city or town, the voter shall be restored to the active voting list at his or her current address, without requiring further action by the person.

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All inactive voters shall be asked to show suitable identification showing their name and current address. Inactive voters who fail to show suitable identification must be allowed to vote. However, an election officer shall, and any other person may, challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 53.03(19). For the purpose of 950 CMR 53.03(5)(b) suitable identification shall be defined in 950 CMR 53.03(5B).

(c) Communications. To carry out the communications required by 950 CMR 53.03 and M.G.L. c. 51, § 59, a properly functioning telephone or other equivalent communications, and a sufficient supply of blank certificate forms, must be immediately available to the

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presiding officer at every polling place. At the registrars' office, at least one properly functioning telephone line for every 10,000 registered voters or fraction thereof in the city or town (including lines entering a main city or town switchboard and connection to the required number of lines in the registrars' office), or other equivalent communications, and sufficient personnel available to staff them continuously, must be available for incoming calls throughout the time when polls are open.

(5A) Escrow ballots. A person claiming the right to vote in a precinct, but who is not allowed to vote for any reason, must be allowed to mark an escrow ballot. Such persons include, but are not limited to, persons who are determined not to be entitled to vote under the certificate procedure of M.G.L. c. 51, § 59 and 950 CMR 53.03(5), voters whose names are already checked on the voting list as having voted, and voters who claim their recorded party enrollment is incorrect, thereby preventing their voting in a party primary. An election officer shall orally inform every such person of his right to mark an escrow ballot, of the procedure for doing so, and of the fact that the escrow ballot will not be counted unless the outcome is sufficiently close and the person is later determined to be entitled to vote; in the case of such persons determined at the polling place not to be entitled to vote under the certificate procedure, the election officer shall also inform such persons of their option to go to the registrars' office and to vote there under the certificate procedure if determined to be entitled to vote, otherwise to mark an escrow ballot there. In all cases, escrow ballots shall be marked according to the following procedure. An election officer shall write the word "escrow" on the back of a ballot, and the person shall add his or her name and address. The election officer shall administer to the person the challenged voter's oath in 950 CMR 53.03(19)(c). The person shall mark the ballot as usual, but it shall not be cast in the ballot box. An election officer shall instead place it in an envelope marked "escrow ballots," and shall note the event in the clerk's election record.

(5B) Identification. If so authorized by the city or town clerk or registrars of voters, an election officer may request any voter to present written identification. Such requests shall not discriminate in any way, but shall be entirely random, consistent, or based on reasonable suspicion. For the purpose of 950 CMR 53.03(5B), of M.G.L. c. 54, § 76B, and of 950 CMR 53.03(5)(b), suitable written identification includes a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address. If voters fail to present suitable written identification when so requested, they must still be allowed to vote, but an election officer or any other person may challenge their right to vote under M.G.L. c. 54, § 85 and 950 CMR 53.03(23).

(6) Mark the Voting List. The election officer shall check the voter's name by marking it on the voting list. In a primary, the voter shall vote on the ballot of the party in which he is enrolled. An unenrolled voter may choose to vote on the ballot of any party. The election officers shall ask unenrolled voters in which party they choose to enroll. The officer shall mark a D (Democratic) or R (Republican) next to the names of unenrolled voters when they indicate a party preference. At a presidential primary, election officers shall explain to voters who inquire that they may change their enrollment after voting by filling out a card available at the polls, which must be transmitted to the city or town clerk.

(7) Voter's Certificate. An election officer shall hand the voter a numbered voting authority certificate.

(8) Direct Voter to Machines. The election officer shall direct the voter to the proper machine. The voter shall give his voting authority certificate to the election officer, who shall deposit it in the container provided. If the machine contains ballot labels for both parties in a primary, the officer shall set the primary lever to the proper party. The officer shall press the entrance button to the machine. The officer shall then allow the voter to enter the machine booth, close the curtain, and vote. The curtain may be manually closed.

(9) One Person Per Voting Machine. Only one person shall be allowed in a voting machine booth except when assistance is provided to a physically disabled or blind person or to a voter who cannot read or who cannot read English.

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(10) Time Allowed. Voters shall be allowed five minutes to vote if others are in line and ten minutes if there are no voters waiting. If a line of voters forms, this rule should be equally enforced. If there is no line, election officers may be more lenient.

(11) Instruction and Assistance to Voters.

(a) Instruct Voters. An election official may answer questions and instruct the voter on the proper method of voting by machine. Election officers shall use a voting machine or the demonstration model to illustrate voting on the machine and shall direct voters to the specimen ballots.

(b) Instruction is Different From Assistance. Instruction shall consist of informing the voter on the proper method of voting by machine; assistance shall consist of actually voting for the voter. Except as the law permits, a voter must vote himself.

(c) Assistance to Voter. If a voter asks for assistance in voting due to blindness, physical disability, or inability to read or to read English, he shall be assisted by a person of his own choice or if he desires instead by two election officers of different parties.

(d) Do Not Influence Voter. Election officers shall not in any manner request or seek to persuade or influence any voter to vote for or against any person or political party or ballot question.

(12) If a Voter Requests Instruction or Assistance After Entering the Voting Machine Booth. If a voter requests instruction or assistance after entering the voting machine booth two election officers of different political parties may instruct or assist the voter in the voting booth.

(13) Voting Machine Problems. If a voter reports a problem with the machine, two election officers, one representing each party, shall check the machine and attempt to assist the voter in casting his vote. If he has inadvertently opened a write-in slot and the election officers can determine that no write-in vote has been cast, he may be allowed to use another machine. The event shall be recorded in the Clerk's Election Record.

(14) Voting Machine Failure.

(a) Call Voting Machine Custodian. If the voting machine is not operating properly, it shall immediately be taken out of service, and the warden shall call the voting machine custodian. Election officers shall not try to solve the problem themselves. Two election officers each representing a different party shall be present while the custodian is repairing the machine. These officers must fill out and sign a certificate of voting machine failure.

(b) Certificate of Voting Machine Failure. A certificate shall contain the following information:

1. The reason for the failure (according to the custodian)
2. That a custodian repaired the machine
3. The number of the machine
4. The number of votes which should be subtracted from the public counter due to the failure. (The custodian shall indicate how many.)

This certificate must be preserved with the election records, and the details of the event recorded in the clerk's Election Record.

(c) Election Officers Sign Order When Machine is Placed Out of Service. If the machine cannot be put back into working order, it shall be placed out of service for that election and a statement that the machine is out of order shall be signed by the election officers and filed with the election returns.

(d) Use Absentee Ballots if Machine Fails. If all voting machines at the polling place fail to operate at any given time, the warden must continue to allow voters to vote using the supply of absentee ballots provided. The warden shall write the words "Cast due to machine failure" on each absentee ballot prior to giving it to the voter. These ballots shall be placed in the ballot box and counted along with other absentee ballots.

As soon as the voting machines are returned to service, use of the absentee ballots shall be discontinued. The details of this event must be recorded in the clerk's Election Record.

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- (15) Write-ins. A voter may cast a write-in or sticker vote in the space provided, for a candidate whose name does not appear on the ballot labels for that office.
- (16) Push Handle to Record Vote. The voter shall register his vote by:
- (a) pushing the handle to open the curtains on an AVM machine;
 - (b) pushing the red voting switch to open the curtains on a Shoup machine or manually opening the curtains;
 - (c) pushing the "vote" button on a direct electronic machine.
- (17) Number of Voters Allowed. When all the voting machines are filled, no more voters than twice the number of voting machines provided shall be permitted inside the guard rail.
- (18) Candidates' and Their Workers' Rights and Restrictions.
- (a) Observers. To achieve the legal requirement that the election be held in public view, observers shall be allowed inside the polling place, outside the guard rail, unless they are disorderly or obstruct the access of voters. They may keep notes including marked voting lists. If there are so many observers in the polling place that they obstruct voters, they may be asked to cooperate in collecting information. The warden may exclude from the polling place any person who is disorderly or who obstructs the access of voters.
 - (b) Voting Machines Clear of Campaign Literature. Election officers shall check the voting machines regularly to see that no one has left any literature in the booth. The polling place must be kept clear of any campaign material.
 - (c) Campaign Material. No campaign material intended to influence the vote of a voter in the ongoing election, including campaign literature, buttons, signs, and ballot stickers, may be posted, exhibited, circulated, or distributed in the polling place, in the building where it is located, on the building walls, on the premises where the building stands, or within 150 feet of an entrance door to the building. As used in this paragraph and M.G.L. c. 54, § 65, the "premises" where or on which the building stands means only the grounds in the immediate vicinity of the building, and does not include the entirety of a large parcel of real property. No person shall collect or solicit signatures on nomination papers or petitions of any kind within 150 feet of an entrance door to the building. The police officer shall enforce this rule under the direction of the warden. Access to the polling place must be open and unobstructed and the voters may not be hindered.
 - (d) Activities at Polling Place. Within 150 feet of a polling place as defined in 950 CMR 53.03(18)(c), no person shall solicit votes for or against, or otherwise promote or oppose, any person or political party or position on a ballot question, to be voted on at the current election.
- (19) Challenges.
- (a) Challenges of the Right to vote. Any election officer or other person may challenge a person's right to vote. The challenger may challenge an absentee ballot as well. The challenger must state the reason for challenging the right of a person to vote, for example: this person is not old enough to vote; this person is not a citizen; this person should have been removed from the voting list; this person has already voted; this person is not the person he claims to be.
 - (b) Illegal Challenges. Challengers should be aware that any person challenging a voter for the purpose of intimidation or of ascertaining how he voted may be fined up to \$100.
 - (c) Challenge Procedure. Election officers shall not permit the challenger and the voter to engage in any arguments. If a voter is challenged, the warden shall administer the following oath to the challenged person:

"You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct, and that you have not voted in this primary (or election)."

The person who is challenged cannot use the voting machines. Instead the challenged voter shall be given an absentee ballot with the word "challenged" stamped or written on the face. The warden shall require the challenged person to write his name and present residence on the outside of the ballot. (If it is an absentee ballot, the warden shall insert this information.) The warden shall add the name and address of the challenger and the stated reason for the challenge, and the voter may cast the ballot in the ballot box. No statement shall be made or information given by any person as to how the person voted.

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The clerk of the precinct shall record in the clerk's Election Record the name and residence of every person who is challenged and has voted. The election officers in charge of the voting list shall mark the letters "CV" next to the challenged voter's name on the voting list.

(20) Only the Following Personnel shall be Permitted Within Guard Rail.

- (a) Election officials
- (b) Voters in the process of voting
- (c) Police officers with the permission of the warden
- (d) Representatives of the clerk's office
- (e) Children may accompany a voter within the guardrail, unless the warden decides that it would disrupt good order.

(21) Information by Election Officers Prohibited. Before the public declaration of the vote, no election officer shall make any statement regarding the number of votes cast, the number of votes given to any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls. But an officer shall, if requested, make a statement of the numbers on the ballot box register, on the last voting authority certificate, or on the public counter.

(22) Processing Absentee Ballots.

- (a) Deliver Absentee Ballots. The absentee ballots shall be delivered during the day, not later than one hour after the polls close.
- (b) Warden Shall Process Absentees. The warden may process absentee ballots whenever there is free time, from the time the polls open in the morning and throughout the day. The warden shall not count any ballots until after the polls close. No ballots may be removed from the ballot box until the polls are closed.
- (c) Absentee Ballots to be Processed. The city or town clerk, and not the election officers, shall determine whether to reject an absentee ballot as defective. If the ballot is transmitted to the polls, election officers shall process it through unless the person's name has been marked on the voting list as having voted in person, or the name is not on the voting list. Election officers shall verify that the name of the person who signed the absentee ballot envelope is on the voting list. Election officers must inform the city or town clerk if the name does not appear on the voting list.
- (d) Mark the Voting List. The letters AV or SAV must have already been written in front of the absent voter's name. A mark shall be made beside the name of the voter to indicate the vote has been cast. An election officer shall announce the name and address, and party in a primary, of each absentee voter.
- (e) Open Ballot Envelope. Election officers shall open the ballot envelope carefully so as not to deface, mark, or tear the ballot or the ballot envelope. Election officers shall place the ballot envelopes in the proper container.
- (f) One Ballot Per Envelope. The ballot envelope must not contain more than one ballot. If more than one ballot is in the envelope, neither ballot shall be counted and those ballots shall be placed back in the ballot envelope which shall be marked "Rejected as Defective" and placed in the proper container.
- (g) Challenging of Absentee Ballots. In the precinct, if an absentee ballot is challenged when cast, the procedure is the same as in 950 CMR 53.03(19)(c) except that the warden shall write the name and address of the absent voter on the ballot. After this, the ballot shall be deposited in the ballot box.
- (h) Remove Ballot and Place in Ballot Box. The warden shall remove each ballot from its envelope without unfolding or examining it. The warden shall present the ballot to the ballot box officer who shall wind it into the ballot box face-up with the name of the community, ward and precinct showing. The envelope shall be kept separate.
- (i) Absentee Ballot Envelopes Shall Be Returned to the Election Authority.

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(23) Absentee Voters Who Seek to Vote in Person. If any person who has been sent an absentee ballot tries to vote in person at the election, election officers should see the letters AV or SAV opposite his name on the voting list. This person must present a certificate obtained from the city or town clerk authorizing him to vote in person. The city or town clerk shall by telephone authorize the presiding officer to issue such certificate if the clerk determines that a voter at the polling place is entitled to it, and the presiding officer shall then sign and issue the certificate. The presiding officer shall securely attach the certificate to the voting list and shall duly note that the voter in fact voted in person. If no certificate is authorized, election officers must refuse to let him vote and they shall refer him to the city or town clerk.

(24) "Specially Qualified Voters" and New Citizens Who Register Late. "Specially qualified voters" and legal residents of the commonwealth who become citizens and register to vote after the regular registration deadline under M.G.L. c. 51, §§ 50-51 shall present their certificates of supplementary registration to the warden at the polling place, and these certificates shall be attached to the voting list. If the specially qualified voters or new citizens are applying for absentee ballots, the certificate shall be attached to the voting list before it goes to the polling place, and the procedure on election day shall be the same as for a regular absentee voter.

(25) Announce the Polls Closed. An election officer shall announce that the polls are closed at the designated time. Each person in line when the polls close must be allowed to vote. If possible, all waiting voters shall be inside the polling place. The police officer shall be directed either to stand at the end of the line and move along toward the inspector until the last person eligible has voted, or to hand out certificates stating that the person was in line when the polls closed.

(26) Lock Machine Against Voting. Immediately after the polls close and all voters in line have voted, the machine shall be locked against voting.

53.04: After The Polls Close

(1) Votes Counted Continuously. The tabulation of the votes shall take place in the polling place. The tabulation shall continue without interruption until all the votes are counted and the results are announced.

(2) Public May Observe Counting. The general public must be allowed inside the polling place after the polls close. The public must observe from outside the guard rail. Only election officers may touch voting machines. All voting machines must be kept in full view of the public while the counting is going on.

(3) Take Count of Voters. The election officer in charge of the voting list shall count audibly and distinctly the number of names checked and shall announce the total number. The clerk shall record the number.

(4) Clerk Shall Record Final Ballot Box Register Number in Election Record.

(5) Read and Record the Number on the Public Counter. Election officers shall read and record the number on the public counter. The number, less any subtraction for machine failure, shall be recorded on the total precinct tally sheet.

(6) Read and Record the Number on the Protective Counter. The election officers shall read off the number on the protective counter. The clerk shall record the final protective counter number on the proper key envelope.

(7) Number of Voters Should Equal the Total of the Votes. The total number of voters checked in on the voting list should equal the sum of the number of votes recorded on the voting machine public counters (less any subtraction for machine failure) and the number of absentee ballots cast. The clerk shall note any discrepancies due to machine failure or other circumstances in the clerk's Election Record.

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- (8) Seal Checked Voting Lists in Envelope. After tallying the voting list, an election officer shall place the tallied voting list in the envelope provided for that purpose. Election officers shall seal the envelope. The warden and clerk shall sign the certificate. This envelope shall be kept separate.
- (9) Open the Voting Machines and Record the Results on Tally Sheets.
- (a) AVM Printomatic Machines.
1. Remove the Printer Pack. The election officers shall remove the printer pack from the machine. They shall tear off the original copy of the printer pack and give it to the clerk. The second copy may be posted for the public to examine.
 2. Read the Results Out Loud. One election officer shall read the counter results out loud from the printer pack copy. The officer shall read the number and letter of each voter counter and the number of votes recorded.
 3. Record Numbers on the Total Tally Sheet. As each number of votes is read aloud, it shall be recorded on the total tally sheet, one machine pack at a time, less any subtraction because of an initial non-zero reading under 950 CMR 52.02(15), by an election officer of a different political party than the reader.
- (b) AVM Non-Printomatic Machines and Shoup Machines.
1. Expose Counters. The election officers shall open the rear of the machine. They shall read all the counters used in that election.
 2. Two Election Officers Read Totals. Two election officers, one from each party, shall read the votes from the machines. As the officers read the votes aloud, the clerk shall record the votes on the total tally sheet, less any subtraction because of an initial non-zero reading under 950 CMR 52.02(15). An election officer of the other party may observe the clerk.
- (c) Direct Electronic Voting Machines.
1. Print Results. The election officers shall cause the vote tabulator to print the election results.
 2. Remove Results Paper Tape. The election officers shall remove the results paper tape from the machine and give it to the clerk.
 3. Read Results Out Loud. One election officer shall read the results paper tape out loud. The officer shall read the name of the candidate, number of each question, the number of votes recorded, and the number of overvotes and undervotes for each office.
 4. Record Numbers on Total Tally Sheet. As each number of votes is read aloud, it shall be recorded on the total tally sheet by an election officer of a different political party from the reader.
- (10) Read and Record Write-Ins. Election officers shall open the door to the write-in roll. If the signature and date from the morning still show, there are no write-ins. If there are write-in votes, election officers shall cut the paper and then read and record the write-in votes on the total tally sheet. A separate block tally sheet may be used for recording write-in votes and then the totals transferred to the total tally sheet.
- (11) Total votes. Election officers shall total the machine and write-in votes on the total tally sheet.
- (12) Candidates Can Check the Votes on the Machines. A candidate for public office whose name appears on the machine or his representative authorized in writing shall be allowed to check the vote count on the machines, or the printer pack or the results paper tape for one hour after the announcement of the vote for that office.
- (12A) Escrow ballot envelope. Two election officers shall count the number of escrow ballots contained in the escrow ballot envelope, and write this number on the outside of the envelope. They shall not count the votes on any escrow ballots. They shall then seal the escrow ballot envelope.
- (13) Remove Absentee and Challenged Ballots From Ballot Box. The warden shall unlock the ballot box with the key received from the police officer. The warden shall remove all ballots in the presence of other election officers.

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(14) Election Officers Shall Separate the Ballots into Blocks of a Convenient Number. In addition, in a primary, election officers shall first divide the ballots by party and then shall separate each party's ballots into a number which is convenient to handle. They shall not open the absentee ballots while separating them.

(15) Count by Teams. Two tellers of different parties shall make a team; both shall review each absentee ballot. One person shall read the vote, and the other shall record the tally. Only the teller actually marking the tally sheet shall have any marking device, which must be a red pencil or pen.

(16) Blocks of Absentee and Challenged Ballots. Each team shall receive a block of absentee ballots, the corresponding block tally sheet, and a long manila envelope. The block tally sheet and the envelope shall have a block number, and D or R on the front if it is a primary.

(17) One Teller Reads Ballots Aloud. Tellers shall count each ballot in its entirety before proceeding to the next ballot. They shall begin with the office at the top of the ballot reading aloud the name of the candidates selected by the voter. They shall continue reading each office aloud in turn. They shall count all offices on one absentee ballot, and then proceed to the next. They shall keep the absentee ballots in the order counted.

(18) Acceptable Method of Recording Votes. Tellers shall use red pencil or red pen. A teller shall read absentee ballot #1 and a marker shall record all votes for selected candidates or blanks in column #1. A teller shall read absentee ballot #2 and a marker shall record vote in first vacant consecutive space on the tally sheet for that candidate. Counting shall continue one ballot at a time working to the right using consecutive boxes as selected candidates are called until the entire stack of ballots is completely tallied.

(19) Alternate Method of Recording Votes. Tellers shall use red pencil or red pen. The teller may record votes in the space corresponding to the order in which the ballot appears in the block. The teller shall read absentee ballot #1 and the marker shall record all votes for selected candidates or blanks in column #1. Teller shall read absentee ballot #2 and marker shall record all votes for selected candidates or blanks in column #2. Counting shall continue one ballot at a time working to the right using the box corresponding to the order of the ballot within the block.

(20) Tally Blank Votes. If a voter does not cast a vote for a candidate, that vote for that office shall be tallied as a blank. If there is more than one position to be filled, there must be a vote tallied for a candidate or for a blank so that the total tally for that office equals the number of positions to be filled. If a vote for an office is spoiled or defective, it too shall be tallied as a blank. Each vote shall be recorded either in a candidate space or in a space for blanks on the tally sheet.

(21) Total the Tally Marks for Each Office. The tellers shall record the total number of tally marks in each line for each candidate for each office. They shall total all candidates' votes and blank votes in each office. For example, if one person is to be elected, the sum of the votes for the candidates plus the blanks should equal 50 when counting a block of fifty absentee ballots. When two persons are to be elected to an office then all the votes plus the blanks should equal 100 in blocks of 50 absentee ballots. The last block counted may be incomplete and so may contain fewer votes.

(22) Tellers Sign Blocks. After completing and agreeing to the totals, both tellers shall sign their block sheet and block envelope. They shall place the ballots and the tally sheet in the manila ballot envelope and return it to the clerk.

(23) Count all Valid Absentee and Challenged Ballots. All ballots shall be counted accurately as marked. A ballot may not be rejected for any technical error if it is possible to determine the voter's choice. All votes shall be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves.

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(24) Invalidating Marks. Election officers shall not count a ballot containing any mark clearly designed to let election officers know that a certain person voted in a certain way. If a voter writes his name or marks his absentee ballot with the letters of his name, these are distinguishing marks which identify a voter. The tellers shall count a blank vote for every office and question on such a ballot.

(25) Over-Voted Offices. No votes shall be counted for an office when a voter marks more candidates than are to be elected. An over-vote shall be tallied as a blank vote, but the remaining valid votes for other offices on the ballot shall be counted.

(26) Write-Ins. A write-in or sticker vote shall be counted whenever the intent of the voter can reasonably be determined, whether or not the voter has omitted the address or has made a mistake in the name or address of the candidate. The voter is not required to mark an "X" beside the name.

(27) Completing the Tallies. The clerk and warden shall enter the results of each block of absentee ballots on the total tally sheet.

(28) Separate Tallies. The challenged and absentee votes shall be recorded separately from the voting machine totals on the tally sheets.

(29) Total Results. To get the total results, the clerk shall add the machine totals, which include any write-in votes on the machines, and the absentee and challenged votes. The clerk shall record these totals on the total tally sheet.

(30) Warden and Clerk Sign Total Tally Sheet. After all votes have been checked and tallied, the clerk shall write the date, ward and precinct, and city or town on the total tally sheet. The warden and clerk shall then sign the total tally sheet. They shall attach the results paper tape, if any, to the total tally sheet.

(31) Place Total Tally Sheet Into Envelope. The warden and clerk shall place the total tally sheet and the results paper tape, if any, in an envelope, seal it and sign the outside of the envelope. This envelope shall be kept separate.

(32) The Clerk Shall Complete All Official Records.

(33) Close the Machines.

(a) Election officers shall close up, lock, and seal the machine.

(b) They shall fill out the form on the proper key envelope entering the machine number, precinct number, if any, poll location, new seal number and the number on the protective counter.

(c) Election officers shall place machine keys in the envelope, seal the envelope, and place the sealed envelope in the container with the official election material, or in the custody of the warden.

(34) Announce Final Returns.

(34A) Reporting Results to Central Reporting Service. The clerk may report by telephone the results of final precinct tallies for any presidential preference primary, state primary or general election to a central media reporting service in consideration for a contribution, in an amount approved by the state secretary, to the respective state-wide municipal clerks association to be used for continuing education programs for municipal clerks.

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(35) Package all Election Materials. Election officers shall place any election materials in the container supplied by the election authority.

(36) Election Officers shall not Throw Anything Away.

REGULATORY AUTHORITY

950 CMR 53.00: M.G.L. c. 54, § 37.

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